KASHMIR

war or peace



Pyarelal Kaul

British India was divided in 1947 on the basis of "Two Nation" Theory of Muslim League. This formula was not, however, extended to Indian Princely States. The Indian States were, therefore, excluded from the purview of Indian Partition Scheme.

Under the Indian Independence Act, 1947, the Ruler of a Princely State was recognized the sole authority for his State to exercise any one of the three options vested in him: To join either, Dominion of India or of Pakistan or to declare Independence.

In accordance with the law, late Maharaja Hari Singh of Jammu and Kashmir executed Instrument of Accession in favour of India which was accepted by the Governor General of India. There is no provision for temporary or provisional Accession, nor it can be subject to ratification by the State Subjects. The loud talk about Plebiscite in Kashmir is against the very law that Pakistan owes her birth to. Plebiscite has no relevance under law.

(Continued)

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DEDICATION

THIS BOOK IS DEDICATED TO THE IMMORTAL MEMORY OF OUR MARTYRS AND ALL THOSE INNOCENTS WHO LOST THEIR LIVES, CIVILIANS AND JAWANS, FOR AND IN JAMMU AND KASHMIR, RIGHT FROM 1947 REGARDLESS OF THEIR CASTE, CREED, COLOUR AND RELIGION.

PYARELAL KAUL

KASHMIR – WAR OR PEACE

CONTENTS

PREFACE

This book presented to the valued readers is based on my long political interest, observations and a brief study of International relations with India in the context of Kashmir. More emphasis is, however, on the situations (and trends) prevailing in Kashmir in the backdrop of Indo-Pak relations.

I have deliberately quoted various passages from writings of some others in regard to dispelling certain misinformation and controversies or for clarification thereof. I have done this to brush aside any likely impression that the point or view has been quoted and referred to out of the context. My endeavour has been to expose the truth and record or narrate the facts honestly. The intention is to learn lessons so as to make amends for future.

Being a displaced person from Kashmir and having forced living outside the Valley all through this long period now, I am beset with some peculiar problems and difficulties as disloged lakhs others are. Lack of facilities coupled with other shortcomings, would have long delayed this book, written in long hand and on separate sheets of paper with intermittent long and short pauses. The material is overlapping in some of the chapters which, however, is different. It was not easy for me to attend to this work before long now, to finalise it for printing. But the credit goes to my wife, Suman Kaul, as well as to Rajesh Kaul and Ameet Kaul, my sons, who took the initiative and collected my scattered written material, went through the proofs and completed it for publication. They have done the job with dedication .

I hereby acknowledge their unrewarded services, though they are themselves also suffering as displaced persons from Kashmir.

I also acknowledge thankfully the help rendered by Susheel Vakil, Nalani Ambardar and Deep Nehru in furnishing some material to me for this book.

I have done the approximate translations of the material from other languages where ever needed and used in this book.

Delhi: Pyarelal Kaul

April, 2003

CHAPTER – I

INDIAN PARTITION
AND
THE STATE OF JAMMU & KASHMIR

The dawn of Indian freedom was in the offing after mid forties, but the people were drifting and tossed afar. A painful schism was created in them, dividing and separating them in the land they had lived together from the hoary past! The people fought for the unity of the people and integrity of the country. But a section of them stood for disunity and dismemberment of the country. A baffling and sad situation it was indeed! Indian National Congress and other Parties and elements struggled for unity and freedom. All India Muslim League, however, stood for separate and independent Homeland for the Muslims. Goals became different, so became the approaches. All demanded vacation of the British Rule and incurred wrath and displeasure of the alien rulers. Muslim League did not choose to offend them and enjoyed their blessings and patronage.

Mahatma Gandhi raised the slogan of "Quit India" on August 8, 1942, asking the British Raj to wind up in India. All were active or interested in seeking their ouster, but the Muslim League leadership was loath and passive. This movement was a matter of "Do or Die" for the Indians, Gandhi exhorted. A movement, intending liberation of entire nation and freedom for whole country, culminated ultimately, on varied purpose and target.

This brought out evidently, the conceptual and political difference and ideological variance between the pro India forces, headed mainly by or under the Congress Party and the anti-India elements fostered by the British Government and led by the Muslim league. The latter was keen to achieve separate and sovereign Islamic State of Pakistan by seeking partition of India based as it was, on "Two Nation" theory.

Muslim League's proposed Pakistan comprised the Muslim majority provinces of "British India". Muslim League was patently unconcerned with the "subjects" and "territories" of "Princely Indian States" as they were called under the British Rule. Muslim League did not, therefore, ever extend its demand over the Muslim majority Princely States of India, nor pressed any claim thereon.

The Congress leadership wanted freedom for people of "Indian States" too. That is why Jawahar Lal Nehru in particular, involved himself, directly or indirectly, in the movement of State's people to achieve their rights. He, therefore, helped the freedom movement in the "Princely Indian States" or tried to boost it up where it had commenced. The purpose behind it was obvious, aim definite and vision clear: It was to achieve one United India as a single political unit and entity, consisting of both, "British India" and "Indian Princely States". Nehru, therefore, helped organise "All India States People's Conference" and adorned its Presidentship. Sheikh Mohamad Abdullah stepped in and became its President in the Session held at Udaipur in early 1946.

The fate of the people of "Indian States" was linked up with the independence of India. No Indian State could conceive or achieve freedom separately, independently and in isolation of the political developments overtaking British India; nor the people of the "States" stood any chance to obtain their full rights, unless the people of British India were freed. Nehru's personal interest in the affairs of "Indian States" and even personal involvement as in Kashmir seems, therefore, due to his extra political activism and enthusiasm.

It was obviously, prompted by his eye on broader national interests, as he perceived and visualised. It may not be so important to determine to what extent Nehru's involvement in the "States" was helpful for the "States" and the "Country" as a whole. However, what seems to be more important and of interest to know, is whether or not, Nehru's involvement in and handling of Kashmir, in the context of professed and pursued Congress policies, was essential and fruitful? It may also be of interest to know whether the role of Sheikh Mohamad Abdullah and his National Conference in the whole game, was productive or counter productive?

Without side tracking here or going into the details, let it suffice to state that the role of both, Jawahar Lal Nehru and Sheikh Mohamad Abdullah in Kashmir, has worked as a double-edged sword. Political benefits as well as disadvantages both, have accrued therefrom: Resolutely, they protected and saved Kashmir from being mauled and upheld the political creed and ideology. Their professions, utterances and actions sometimes, injured and damaged Kashmiri's interests, and other times, threatened their peaceful survival. It resulted in India's financial drain, besides in diplomatic embarrassment. Even then, Nehru's grip over Kashmir was firm, the stamina to hold it unimpaired and Sheikh Abdullah's popularity undiminished. Nehru was never prepared to yield, budge and relent on Kashmir, "acceded" and "integrated" with India as it was. He was also very keen in upholding stoutly the unity of

partitioned India from Kashmir to Kanya Kumari as the picture emerged after the partition. Difficulties ensued but he surmounted, partly created of his own doings, miscalculations made or follies committed and partly inherent in the situation.

All the parties other than Muslim League, were vehemently opposed to the dismemberment of India. Communist Party of India was, however, sluggish with dissimilar view. Sheikh Mohamed Abdullah and his National Conference, did not subscribe to the "Two Nation" theory of Jinnah and his Muslim League and division of India on this score. Pakhtoon leader of North Western Frontier Province, Abdul Gaffar Khan was also against this policy and programme of Muslim League. Himself a first rank Congress leader, Gaffar Khan and his followers "Khudai Khidmatgars" opposed tooth and nail dismemberment of British India on communal lines.

Mohamad Ali Jinnah was alongwith his Muslim League, adamant to have his pound of flesh. He was keen, as such, on partition of India. In response to the invitation by Sheikh Mohamad Abdullah for forging unity among the Kashmir Muslims, Jinnah visited Srinagar in May 1944. He thought time was opportune to strike and consolidate Muslims of Kashmir on one platform and strengthen their pro-Pakistan Muslim Conference. Sheikh Abdullah, however, wanted acceptance of his leadership and superiority of his National Conference.

National Conference called a public meeting at Pratap Park, Srinagar to accord reception to Mohamed Ali Jinnah in May 1944. The latter attended it and was given a big ovation. The function was presided over by Jia Lal Kilam (later Justice Kilam), a leader of National Conference. Jinnah's purpose of visit, though invited by Sheikh Mohamad Abdullah to forge unity among Kashmiri Muslims, could not be other than to prepare the ground for his "Two Nation" theory and to sow the seeds of communal disharmony and disunity in Kashmir. He was keen on division of India and creation of Pakistan as also to usurp Kashmir, of course, with the blessings of British Government. That in mind, he had a coveted eye on Kashmir. Jinnah, however, did not give out what really was lurking in his mind about Kashmir. And what he publicly divulged in Kashmir, was not what he adhered to. He ultimately unfolded himself as a person hell-bent to annex Kashmir by resorting to violence and terrorism which he never hesitated to adopt as his political weapon to achieve his objectives.

Sheikh Mohamad Abdullah though addressed Jinnah in his speech as "beloved leader of Indian Muslims", yet Sheikh Abdullah gave him his mind by not commending his politics in his

speech. At the start of this meeting, Pran Nath Jalali, a young student leader was announced to recite a song. Being a leftist, he wanted to sing a popular Communist song of those days:

Yeh jhang hai jhange-Azadi - - Azadi kay parcham kay talay

[This is a war for freedom - - Fought under the banner of freedom]

But Sheikh Mohamad Abdullah told Jalali not to sing that freedom song in presence of Jinnah and advised him to sing the Indian patriotic song of Dr. Mohamad Iqbal which, according to Sheikh, befitted the occasion. Pran Nath Jalali, therefore, sang the popular Indian national song:[1]

Sare Jehan say achha Hindustan hamara - -Ham bulbulain hay iski yeh Gulistan hamara

{Glorious in the world our India is- - Flowery garden it is and we, the nightingales}

Jinnah, however, tried to escape this political indifference shown to him, by giving a twist to his speech. "*The reception accorded to me*", said Jinnah, "*is in fact, given to the party I represent*", he said.

Jinnah's politics was as individualistic as it was feudalistic. His stand was pro autocracy as much as it was anti people. He hinted about it later in a press conference held at Srinagar during his comparatively long stay in the Valley. He said:

"*As I said on my arrival in Jammu, it is not the policy of the Muslim League to interfere in the administration of the State or to raise grave issues between the Maharaja's Government and the people*"[2].

At the time of his departure from the Valley of Kashmir, Mohamed Ali Jinnah issued a Press Statement in Srinagar on 25th July 1944. He groused Sheikh Abdullah's attitude and said:

"*Sheikh Abdullah and his party and the Muslim Conference discussed matters with me in Delhi and Lahore before my arrival here, and were good enough to give great reception, and were anxious that I should hear both sides and bring about a settlement. When I, after careful consideration, suggested that Musalmans should organise themselves under one flag and one platform, not only that my advice was not acceptable to Sheikh Abdullah, but he indulged in language of a most offensive character in attacking me*"[3].

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[1] See also the author's book – Crisis in Kashmir. This visit was made at the invitation of National Conference as per Pran Nath Jalali.

[2] Jamal ud-Din Ahmed, Speeches and Writings of Mr Jinnah, Vol. II , Mohd. Ashraf, Lahore, 1964 P. 113.

[3] Ibid.

While departing from Kashmir, Jinnah was not given a good send off: He left the Valley as an estranged person. Mir Qasim says:

"The Muslim League with its reactionary and sectarian policies got more and more estranged from the National Conference. The late Mr. M. A. Jinnah, President of the Muslim League, came to Srinagar personally in the summer of 1944 to dissuade the leaders of the National Conference from converting a Muslim majority area like Kashmir into a base of the Indian National Congress and thereby damaging the cause of Muslim solidarity. Unfortunately for Mr. Jinnah, the leaders of the National Conference simply refused to listen to him and he had to depart from Kashmir in somewhat humiliating conditions."[4]

Jinnah had adopted a contradictory posture: He pleaded for partition of India on the basis of "Two separate Nations" and demanded Muslim majority provinces of British India to form separate and independent Islamic State of Pakistan. He also conceded the right of the Princess of "Indian States" to exercise their option of "Acceding" to either of the Dominion or to declare "Independence" of the State regardless of the State's religious denomination. This conflicting stand virtually renders the "Two Nation" theory inoperative and redundant. It did not, therefore, evolve a precise principle which could be made applicable universally to both, "British India" and "Princes India". The Muslim League's publicly committed policy could not serve, as such, any guide to follow in creating and forming of Pakistan excepting that its demand confined to the limits of "British India" only. The "dispute" sought to be raised about the State of Jammu & Kashmir is, therefore, utterly misconceived and misinterpreted as also devoid of any logic and force of law. Thus, there could not be any "dispute" nor is one with respect to this State under principles of political morality and related provisions of law.

Sheikh Mohamad Abdullah, however, rejected in toto, Jinnah's political concept of separate Islamic country of Pakistan, which was to be carved out of the territory of British India alone. Muslim League, therefore, sealed its fate, completely and morally and legally, also of the separate country of Pakistan formed subsequently, to extend its principle, demand or claim over any "Princely State" of India or any area thereof. The Jinnah's formula of partition had in any case, no application to the State of Jammu & Kashmir, the Sheikh pointed out, in view of this and as per the declarations of Jinnah himself. Sheikh Abdullah took on

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[4] Mir Qasim- Rejoinder to Sheikh Abdullah. Mir Qasim is the former Chief Minister of Jammu and Kashmir.

Jinnah, on his own public commitments and denied him any right to advise Kashmir Muslims. Sheikh Abdullah said:

"Viewing the position from an All India perspective, we find that Mr. Jinnah has repeatedly declared that he does not extend his plans of Pakistan to the Indian States. Thus his conception of Islamic sovereignty conveniently halts at the Customs barrier which divides our State from British India. Yet when it comes to giving advice, Mr. Jinnah trespasses over his own boundaries"[5].

The Muslim League had, in fact, no basis for demanding creation of Pakistan. It was, therefore, feeling guilty in extending its demand on Kashmir publicly. As against this, Nehru made Congress cards very clear from the beginning about Accession of "Princely States" to the Dominion of India. In the last session of All India States People's Conference held at Gawalior on 19th April 1947, Jawahar Lal Nehru cautioned the States to join Indian Dominion or else face consequences.

"Nehru had declared at the Gawalior Session of the All Indian States People's Conference that any State that did not join the Constituent Assembly of India, would be considered hostile, and accordingly dealt with"[6].

Against this warning of Nehru to the "States", the Muslim League General Secretary, Liaqat Ali Khan sharply reacted. He tried to instigate the "Indian States", (overwhelming majority of whom was falling within the territory of Indian Dominion), to overlook this warning. He asked the "Princes" of the States to take the decision even about Independence freely and unmindful of the pressures exerted by India. On Nehru's warning of dire consequences, he is reported to have said:

"Liaqat Ali, on the other hand, in the usual revile reactionary methods of the Muslim League, came to champion the cause of Princes and advised them not to be coerced by Nehru, and to declare independence, if they so desired"[7].

Jinnah did not like to see "fraternal relations" developing between National Conference and the Congress Party. He opposed, as such, the "Quit Kashmir" movement, launched though against a Hindu Maharaja. It was for the achievement and assertion of the rights of the common masses, the majority of whom was Muslims:

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[5] Jamal-ud-Din Ahmed, Speeches and Writings of Mr. Jinnah, Vol. II, Mohd. Ashraf, Lahore, 1964. PP 62-63.

[6] M. Ganjoo, This is Kashmir -With Special reference to UNO, "Kashmir Through The Ages" Vol. 1, Chapter 19, P. 170, ed. Suresh K Sharma, Usha Sharma.

[7] Ibid.

> *"Meanwhile Jinnah did not at all like the close co-operation, common understanding and the fraternal relations between the National Conference of Kashmir and the Congress leadership. Efforts were made to build up a communal organisation and Jinnah himself spent sometime in Kashmir but it must be said to the undying credit of the Kashmiri Muslims that they did not succumb to his communal approach. In the struggle for "New Kashmir" in 1946, Jinnah was expected to support the Kashmiri people's fight against the ruler, even from a purely communal approach. What he did, however, was to condemn their struggle as an agitation whipped up by malcontents to create disorder in the State"*[8].

Mohamed Ali Jinnah in June 1947, openly hailed and supported the legal power and competence of the rulers of the "Indian States" to exercise their option including declaration of independence freely and without consultation of the people.

> *"...By the mid-June Mr. Jinnah, the reputed reactionary, announced that States were legally free to declare Independence and that Indian Princes could decide themselves (without referring the matter to people) about their future, either to join India or Pakistan, or remain Independent. He was obviously helping Kak against the Sheikh and the people"*[9].

This notwithstanding, does it still lie in the mouth of Pakistan to raise question of Kashmir, which has no basis? The competent Maharaja had legally acceded to India. On the issue of Accession, however, Congress stand was obviously different than the one adopted and pursued by Muslim League. The latter was supporting the right of the "Princes of Indian States" to decide the issue of "Accession" or "Independence" without reference to the "subjects" of the "States". Legally, it was the only correct position. The Congress stand was, by and large, pro people stand and patently against the Princes – Maharajas and Nawabs of the "Indian States". This was, however, a hypothetical question and the Congress stand unjustified under the circumstances as also impracticable, besides being against the provisions of the law as prescribed in the related law like the Indian Independence Act, 1947.

Jawahar Lal Nehru's personal involvement in the Kashmir affairs and his plunging into the "Quit Kashmir" movement in 1946 made Kashmir situation complex as it emerged with the Division of India. Nehru supported Sheikh Mohamed Abdullah and his National Conference and antagonised the legally recognised Maharaja Hari Singh. He courted arrest also in the State at Kohalla in May 1946, in connection

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[8] Kashmir Problem, "Kashmir Through The Ages" Vol. 1 P. 356
[9] Ibid P. 170

with this movement and against the ban that the State Government had imposed on his entry into the State. The stand of Mohamad Ali Jinnah and his Muslim League, strictly speaking from the stand point of law and the Constitution, was absolutely correct and right at the eve of partition, but not of the Congress Party. The former changed the strategy soon after, the latter did not. Muslim League and Congress Party were, however, politically poles apart which created diverse friction in the State. The situation thus developed was, therefore, more due to political confrontation than implementation of law.

> "*.........the attitude of the Pakistani leaders provided every encouragement to the Maharaja. The Pakistani Government imposed no conditions that he should make concession of any sort to the people. As a matter of fact, prominent Pakistani leader expressed open displeasure at his action in having released Sheikh Abdullah from jail. Private emissaries of Late Mr. Jinnah assured the Maharaja that by linking Kashmir with Pakistan, he would not find his prerogatives threatened or privileges reduced. According to a public statement made by Mr. Jinnah it was the Maharaja's sole right to decide the question of accession without any obligation to consult the wishes of the people*"[10].

Had not there been Dogra Rajput Ruler like Hari Singh, it could not be said with certainty if Jammu and Kashmir would Accede to India or not. More so, in face of the earlier attitude and approach of Mohamad Ali Jinnah and the policy of Nehru's Congress towards the Maharaja and his State, the option of Accession might not have even been exercised by the Ruler.

Sheikh Mohamed Abdullah was already not satisfied with policy and stand of Muslim League. Their politics was based merely on Muslim fanaticism and opportunism, divorced totally from reason and logic as well as practicability and realism. Sheikh Abdullah had to leave the Muslim League Session held at Lahore in 1940 in which the Muslim League adopted Pakistan resolution. This he did on the ground of conflicting and contradictory stands pursued by Muslim League between one Princely State and another State, which the Sheikh disagreed with. Sheikh Abdullah says:

> "*I fully remember that I was coming back to Kashmir from Ramgarh, after attending the Annual Conference of Indian National Congress as a special invitee ...I reached Lahore where famous Session of Muslim League was being held in which the resolution about Pakistan was adopted ...That time, Nawab Bahadur Yar Jang, a*

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[10] Kashmir Problem, "Kashmir Through The Ages" Vol. 1 PP 357-358

famous leader from Hyderabad, was delivering his thunderous speech... Describing the plight of Kashmiris, he demanded grant of Responsible Government to the State. At the same time, however, he dismissed this demand for Hyderabad on the plea that Muslims had got Hyderabad by dint of the sword and they will retain it by force only. This argument was so silly. I was disgusted and walked out of the session"[11].

This show of communal bigotry, political expediency and double standards of the Muslim League, did not lay down basis for any sincere, honest and scrupulous politics, even communal. Sheikh Abdullah felt hurt and injured by this defective and disadvantageous line of political thinking, approach and action of Muslim League leaders, which was different for Kashmir where the Maharaja was a Hindu. It would have meant to accord and confer unreasonable arbitrariness upon the Maharaja and even legitimacy to the victimisation or violent suppression, if the Maharaja had chosen to commit against his subjects, particularly Muslims. Sheikh Abdullah did not and could not view it favourably. He says further:

"Next day in the office of "Inquilab", I happened to see Maulana Ghulam Rasool Mehar and Abdul Majid Sahib Salik. Both were kind to me. I broached the topic of Bahadur Yar Jang's speech and enquired: What was justified for Kashmiris, why was not the same applicable to the people of Hyderabad? How then the argument advanced by Nawab Sahib about the Autocracy of Hyderabad, can not be advanced by the Maharaja of Kashmir or others who also happen to bear the identical views about Kashmir?.. Despite his soft nature, Mehar Sahib retorted and said: "We can sacrifice lakhs of Kashmir on Hyderabad."[12]

It exhibited that Muslim League leaders had no love for Kashmiri Muslims but had consideration of own interests only. Jinnah's stand of non-interference with the Princely Indian "States" as well as their functioning and options exercisable by them, was in fact, a deceitful tactics to keep the States, particularly Jammu & Kashmir and its Maharaja in good humour. This duplicity on the part of Muslim League leaders did not, however, confer any moral and legal right or claim, whatsoever upon Pakistan regarding Kashmir.

The division of India, by and by, appeared inevitable. Independence of India was not far off. It was to give now birth to the new Dominion of Pakistan. The question of Kashmir's position and future was, therefore, acquiring significance day by day in the over all

[11] "Aatishe Chinar" Autobiography of Sheikh Mohamad Abdullah. PP . 255-256
[12] Ibid P. 256

context of division of India and the ensuing drift and delay in the Accession. Ram Chandra Kak, Prime Minister of the State, was perhaps, under the wrong impression that the British Government would retain or regain some vital influence and interest for long in the subcontinent, even after its partition. He, therefore, coupled with other factors, leaned towards Independence of the State and advocated for it.

The Congress President, Acharya Kripalani visited Kashmir on May 17, 1947. He met Ram Chandra Kak, Prime Minister of the State, but could not discuss the future of Kashmir elaborately with him. Kripalani's grievance was that Kak asked his British wife to sit beside him during the talk. He suspected that Kak was under the influence of British Government. When Kripalani was asked by a delegation of Pandits as to what about surface link of Kashmir with India after establishment of Pakistan, the former quipped, *"We will do anything to have the road link, but have the Accession first"*[13].

Mahatma Gandhi visited (Kashmir) on July 18, 1947 for a couple of days. A Hindu Young Men delegation, owing allegiance to National Conference, called on Gandhi in Srinagar. The delegation requested Mahatma Gandhi to prevail upon Maharaja Hari Singh to "release Sheikh Mohamed Abdullah". Tension was brewing up in the State, as the division of India was imminent, the delegation conveyed to Gandhi. In this atmosphere of apprehensions and uncertainties anything untoward might occur, the delegation members pleaded with Gandhi, emphasising that Sheikh Mohamad Abdullah was the person who alone could control the situation and maintain communal harmony. The Mahatma gave a penetrating look to the members of the delegation. He was very subtle and exhorted them, *"Sheikh Abdullah is a lion and Kashmiri Pandit is "Bakra". The lion will devour up Bakra when it comes out"*,[14] Gandhi told the delegation. While it indicated Gandhi's insight into the opportunistic nature of Sheikh Abdullah, it also showed the delicacy and graveness of the Kashmir situation.

Mahatma Gandhi had given this very reply to a separate delegation of the Kashmiri Pandits' Sanatan Dharm Yuvak Sabha also when their leaders, inter alia, pleaded for release of Sheikh Abdullah.

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[13] A delegation of Sanatan Dharm Yuvak Sabha had called on Mr. Acharya Kripalani, Congress President then. The delegation included Late Sri Kanth Chakoo, Advocate. He had passed on this information to the author.

[14] This young Pandits delegation included Mr. Mohan Krishna Tikoo now Ex. Minister & Chairman Jammu and Kashmir Legislative Council who narrated this to the author in Jammu, some years back, where he himself is living as displaced person from Srinagar. The current exodus of Kashmir Hindus had, in fact, started from 1989, during the regime of National Conference, headed by Dr. Farooq Abdullah, the son of Sheikh Mohd. Abdullah.

While confirming the above remarks of Mahatma Gandhi, Justice J.N. Bhat (Retired) has told me that Gandhi emphasised on the above remarks and added further in clear terms: *"We have been seeing it for the last forty years"*, Gandhi told this delegation, perhaps in the context of politics of Muslim leaders in India, Bhat explained.[15]

Gandhi's talk with the Pandit delegation was hinting to the nature and deepness of the complexity of the situation. The Congress leaders including Mahatma Gandhi, were keen and serious to seek release of Sheikh Mohamed Abdullah as early as could be and to invest him with power without loss of time. Hurdles were many to overcome both, for Maharaja Hari Singh and for Government of India. The latter was aspiring much from the Maharaja and desiring to concede more to Sheikh Abdullah. This laid as before, basis for tug of war between Indian Government and the Maharaja. Sheikh Abdullah was sitting on the fence and watching the situation to get and consolidate maximum political gains without initially being on the throes of strife and struggle for Accession.

This accounted for further delay in Accession and release of Sheikh Abdullah– a convict, undergoing sentence of imprisonment for launching "Quit Kashmir" movement against the Maharaja. The former was a helpless and hapless caged bird depending on the bounty and handling of the cage holder. Once the window of the cage was opened and the bird got out, it would fly, not to be reached and caught, the Maharaja could contemplate it. As such, no imminent chances of compromise and settlement were in the offing between the Maharaja and the Government of India on the issue of Maharaja's powers and privileges as also the release of Sheikh Mohamed Abdullah and conferring the State power upon him.

It is, in fact, Nehru who was to fight to the finish on Kashmir issue and was so very keen and adamant to visit Kashmir himself. Nehru wanted to have Kashmir with India under all circumstances. Lord Mountbatten, Viceroy of India and later Governor General, appeared to have indifferent views on Kashmir. He was perhaps toeing the British policy on Kashmir. But Nehru's determination on Kashmir seemed to have deterred the British authorities, diplomats and personnel to pursue openly their underlying policy and make any headway in regard to the two large Indian States- Kashmir and Hyderabad. The issues of these two States were created to balance the rival claims of the

[15] **Justice J.N. Bhat (Retd), a senior most living Ex. Judge of Jammu and Kashmir High Court, has informed the author about Gandhis these remarks last year in Jammu, where he also is passing his days as dislodged person from the Valley of Kashmir.**

two contending Parties- Congress and Muslim League, or strictly speaking, India and Pakistan.

"In hindsight, Sir Conrad Corfield, who was political advisor to the Viceroy from 1945 - 47 also believed that, instead of listening to the advice of the Indian Political Department, Mountbatten preferred to take that of the Congress Party leaders. Corfield had suggested that if Hyderabad, second largest of the princely States, with its Hindu majority and Muslim ruler, and Kashmir, with its Hindu ruler and Muslim majority, were left to bargain after independence, India and Pakistan might welcome to an agreement. The two cases balanced each other.........but Mountbatten did not listen to me.........Anything that I said carried no weight against the long standing determination of Nehru to keep it (Kashmir) in India"[16].

Mountbatten was initially of the view to hold a referendum in the State of Jammu and Kashmir in order to determine and solve the Accession question of the State after partition of India was effected. Quoting Morris Jones, it was regarded a good option.

"if only the State's problem had been where it should have been in June, high on the Mountbatten agenda-which it was not. By the time Mountbatten put forward the idea of a reference to the people in October, it was too late. He was no longer Viceroy and so no longer in a position to see it through as an integral part of the partition operation."[17]

As already stated, Jawahar Lal Nehru was bent upon to visit Kashmir and to see Sheikh Mohamad Abdullah in prison as also Maharaja Hari Singh to finalise the Accession of the State of Jammu and Kashmir to the Dominion of India. Nehru, therefore, decided to visit Kashmir for this purpose in June 1947. Mountbatten had, however, his own covert policy about Kashmir and some how he put obstacles in the way of Nehru's visit to Kashmir. He avoided Gandhi also from visiting the Valley, and instead, intended to visit himself Kashmir *"and decided to take up a long-standing invitation from Hari Singh to visit Kashmir himself"*[18]. Nehru, therefore, did not move to Kashmir but seemed that he, on his part, tried to brief Mountbatten properly on Kashmir so as to canvass for Kashmir's Accession to India.

"On 18 June the Viceroy flew to Srinagar. He had with him a long note prepared by Nehru, which on the basis of Sheikh Abdullah's

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[16] Sir Conrad Corfield, Some thoughts on British Policy and the Indian States 1935-47, Philips and Wainwright, The Partition of India, P- 531, Kashmir in the Crossfire by Victoria Schofield P.121.

[17] Victoria Schofield – Kashmir in the Crossfire, P. 120.

[18] Ibid P. 121.

> *popularity in the Valley made out a strong case for State's accession to India: Of all the people's movements in the various States in India, the Kashmir National Conference was far the most widespread and popular......Kashmir has become during this past year an All India question of great importance......It is true that Sheikh Abdullah's long absence in prison has produced a certain confusion in people's minds as to what they should do. The National Conference has stood for and still stands for Kashmir joining the Constituent Assembly of India"*[19].

All this interest taken by Jawahar Lal Nehru was to ward off the communal influence of Muslim League on Kashmir and to boost up ideological affinity between Congress and National Conference and he wanted Viceroy Mountbatten to canalise it properly. Nehru was obviously keen to have Accession of Kashmir to India with the popular support than merely on the basis of the Maharaja's legal mandate. Nehru's this approach, though democratic in content and contour, was neither legalistic nor realistic. He thereby sought to subordinate the Majesty of Law to the unauthorised opinion and caprice of the multitudes and their leaders which formula was not applied to the partition of India itself, unnatural and unacceptable to the overwhelming majority of the undivided Indians.

This lopsided view laid basis for conflict and contradiction over Kashmir, though meaningless and without legal footing. This sowed the seeds of trouble in the State of Jammu and Kashmir. Nehru and the Government of India made, therefore, a departure from lawful prescriptions of administration, politics and the polity. They tried to introduce an element of democratic morality (apparently) in the field of legality, traversing beyond the limits that were enjoined by law and as a consequence making mess of things, more so, as the Western Powers were interested in it and exploited it to the disadvantage of India.

If Jawahar Lal Nehru and the Congress Party were so political moralists and so keen for eliciting and respecting popular opinion, they should not have accepted at all then partition of India of their own and without reference to the people. Moreover, Jinnah and his Muslim League ought to have not hankered after the British Government to effect partition of the sub-continent and have this undemocratic and despotic verdict to the detriment of the people, dividing them callously. Against the wishes of overwhelming majority of people, the demand for partition advanced and pressed by Muslim League had surprisingly been conceded to, by them even without going in for plebiscite or referendum therefor. Was it not fair to the people of

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[19] Ibid., P. 121

India and their future progeny to resist the partition demand at least till it was referred to the people and supported by majority of the people? Was it then fair to yield in the manner they did?

When they did not bother for the whole country and for the whole nation of teeming millions, how did they then care and yield so much to offer privileged position and status for a patch of land and a chunk of people in the country? Muslim League got Pakistan in India from British Rulers, arbitrarily, why could not India get Jammu and Kashmir from the native Ruler, lawfully by Accession? If Pakistan does not accept this position and not act on this reality, (as both the historical events are the products of the same Indian Independence Act, 1947) then India should deny legal existence of Pakistan and demand its reverting to India. Till then India should de-recognize Pakistan and also should appeal the world countries to de-recognize Pakistan.

The question of striking a balance, between Kashmir and Hyderabad was no Issue. What prospects of the latter could be there for Acceding to Pakistan or declaring independence, had no similarity with the former. It is good to care for the popular good but it is not good to create more serious issue out of the issues, which could be settled with Statesmanship and without becoming cause for flaring up the situations. Some of the States like Qalat and Bhawalpur, now parts of Pakistan, also did raise the issue of their Independence with the Dominion of Pakistan. But Pakistan did not allow them to remain separate from Pakistan. These State's have not, however, turned trouble spots in Pakistan, nor India fanned their discontent to foment trouble for Pakistan.

Lord Mountbatten was pursuing a precise policy viz.- a-viz. Kashmir which could be termed the policy of British Government regarding Kashmir. Nehru's Note notwithstanding, laying emphasis on Kashmir's Accession to India, Mountbatten was in favour of Kashmir's Accession to Pakistan. Nehru had, inter alia, clarified in his Note that the happening in Kashmir was:

> *"of the first importance to India as a whole not only because of the past year's occurrence there, which have drawn attention to it, but also because of the great strategic importance of that frontier State. There is every element present there for rapid and peaceful progress in co-operation with India"*[20].

Mountbatten was regarded, whatever the reasons, close to Jawahar Lal Nehru, Prime Minister of India. Nehru reposed trust and confidence in the Viceroy, Lord Mountbatten, depending upon his help and wishing success of his Mission in Kashmir, in the light of his

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[20] Victoria Schofield, Kashmir in the Crossfire, P.121.

Note on the political background of Kashmir. Mountbatten's main plank of pressing his viewpoint covertly in regard to Accession of Kashmir was, however, its contiguity to Pakistan and its large Muslim population. In a twisted manner, Lord Mountbatten apprised Nehru of his talk with Maharaja Hari Singh. It unfolded the mind of the Viceroy Lord Mountbatten, which could not work against the British Policy. It obviously was, against the interests of India in general and the Hindus in particular. Lord Mountbatten confirmed it later:

> *"My chief concern was to persuade the Maharaja that he should decide which Dominion Kashmir should join, after consulting the wishes of his people and without undue pressure from either side, especially the Congress leaders"*[21].

The British Government and the Viceroy of India adopted double standard. They boosted up Muslim minority led by Muslim League out of way, harming immensely India and the Indian people. The British Government never referred the issue of partition of India to the people, nor was any logic and justification for this un-natural and arbitrary dismemberment of the sub-continent. Would Britain have effected partition of this country and chosen to disintegrate it, if Britain were to remain in and rule India for any length of time more? Lord Mountbatten stressed the Congress policy during his talk to the Maharaja that in view of "Muslim majority" in Kashmir, if the Maharaja decided to join Pakistan, the Congress Party would not take that as an affront.

The Maharaja, however, neither yielded on the question of Accession, nor committed anything to Mountbatten. Nehru was the most disappointed person about the outcome of Mountbatten's visit to Kashmir when he returned to Delhi. He expressed so in his letter to Mountbatten.[22] As a result of this prejudiced policy and partisan role of the British Government and their last Viceroy in India, the Anglo American Block stretched this imperious and unfair attitude to the State of Jammu & Kashmir. It found a vivid expression and demonstration in the debates of United Nations later. A day will come that Britain in general, and the Anglo American Block in particular, will feel the impact of the policy they pursued and realise the faux pas they committed viz-a-viz the Indian sub-continent.

Jawahar Lal Nehru was extremely sensitive about Kashmir and bent upon to have it with India. He was too emotional about it, perhaps due to being a descendent of a Kashmiri family.

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[21] Mountbatten to Mohamed Yousuf Saraf, 3 November 1978, Kashmiris Fight for Freedom P 1395 Vol. II

[22] Nehru to Mountbatten, 27 July, 1947

"......it is apparent that Jawahar Lal Nehru's personal feelings were an important determinant in the State's future. Mountbatten regarded Kashmir as 'the one subject on which he could not get Nehru to see sense'...The retiring Commander-in-Chief of Pakistan, General Sir Frank Messervy, commented after a private conversation with Nehru in February, 1948. 'He said that he quite appreciated my arguments (in favour of Kashmir joining Pakistan) but 'As Calais was written on Queen Mary's heart, so Kashmir is written on mine'. In other words, sentiment overcame reason on this particular issue"[23].

Nehru's overwhelming emotional attachment with Kashmir was there, no doubt. But unlike many Britishers and some other foreigners, he was not politically prejudiced and ideologically unreasonable, nor insensitive to the developing predicament. The above quoted opinion indicated the foreign dignitaries' unconcernedness with the prevailing tension as well as the sordid outcome that would flow, if Kashmir had acceded to Pakistan. What havoc Pakistan dastardly played with the innocent people of Jammu and Kashmir, particularly with the non-Muslims, in attempt to annex the State, is no longer shrouded in mystery.

Nehru had four important reasons to be so sensitive and sentimental about Kashmir. a) He was himself descendant of a Kashmiri family; b) He wanted to defeat and disprove the "Two Nation" theory of Mohamed Ali Jinnah and his Muslim League which Britain had implicitly conceded to; c) To save Kashmir from Pakistan's communal virus, bloodshed and the ethno religious cleansing; d) Try to avoid at least the perpetual flow of adverse consequences, effect and reaction of partition on the people of India, by Accession of Kashmir to India; and e) For, Kashmir has a strategic importance because of its location.

As such, Nehru was head and ears engrossed in Kashmir and it was on top of his agenda. He had some important consultations on Kashmir with Patel also. Prime Minister of Interim Government in India, was so much emotionally involved in Kashmir that he thought nothing beyond it and shed his tears about Kashmir. This is sufficient to indicate his deep involvement in Kashmir. He could not contemplate of India without Kashmir.

"Mountbatten had also heard how, during a meeting with Patel, 'Nehru had broken down and wept, explaining that Kashmir meant more to him at the time than anything else"[24].

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[23] Patrick French, Liberty or Death, India's journey to Independence and Division. P. 372.
[24] Victoria Schofield, Kashmir in the Crossfire, P.123;

A version current in a section of Kashmir Muslims that it was Nehru alone who wanted to have Kashmir with India and not Patel, is not correct. Patel had sent Gen. Kariappa to Kashmir on a special and secret Mission in 1947 itself, much before Pakistani raid over Kashmir. He had prepared and taken some important site and strategic maps of Kashmir so as to be well equipped for any future action in Kashmir. As Home Minister in the Interim Central Government, Patel wrote a letter to Maharaja Hari Singh in which, inter alia, he said:

"I wish to assure you that the interest of Kashmir lies in joining the Indian Union without any delay. Its past history and traditions demand it, and all India looks up to you and expects you to take this decision."[25]

Dissatisfied over the visit of Mountbatten to Kashmir, Jawahar Lal Nehru planned to visit Kashmir himself and exert his whole influence to seek Kashmir's Accession to India and arrange for participation of National Conference leaders in the Constituent Assembly of India. Mountbatten came to know about Nehru's proposed visit to Kashmir. He did not like him to go there and suggested him "*not to go running off to Kashmir.*"[26]

Mountbatten was unpleased with the Nehru's decision to go to Kashmir. The former then insisted on Gandhi's visit to Kashmir and that too not making any serious or controversial speech there. Mountbatten also became very adamant about it and wrote a confidential letter to the British Resident in Kashmir- Col. Wilfred Webb. Referring to Nehru, Mountbatten wrote to Webb:

" (Nehru) is under very great strain and I consider that a visit by him to Kashmir at this moment could only produce a most explosive situation; whereas if His Highness can be persuaded to handle Gandhi tactfully, I believe that there is a good chance that his visit could be passed off without any serious incident."[27]

Finally, Mahatma Gandhi became the substitute for Nehru and his visit to Kashmir started from Delhi on August 1st 1947. By the mounting Congress pressure for Accession of Kashmir to India for some time past and rapport of National Conference and the Congress, created some panic in the mind of Jinnah and his Muslim League. Jinnah's announcement about absolute freedom and discretion of the Maharaja of a Muslim majority State to Accede either of the Dominion or to remain independent without reference to the people, found some dilution. Jinnah declared in July 1947:

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[25] Sardar Patel to Hari Singh, 3 July 1947- Sardar Patel correspondence., P.33.
[26] V.P. Menon, Transfer of Power Vol XI, P.593.
[27] Mountbatten to Webb, 28 June 1947, Victoria Schofield, Kashmir.

"Wisdom demands that the feelings and sentiments of the Muslims who form 80 percent of the population should not be ignored, much less hurt."[28]

In view of such counselling, how did then Jinnah dare to hurt and crush the feelings and sentiments of the overwhelming population of the Indian Sub-continent by pressing the demand for Pakistan as a separate sovereign State for Indian Muslims?

Jinnah and his Muslim League had faith in the State Prime Minister, Ram Chandra Kak. They had satisfaction that during Kak's continuance in the saddle of power as Prime Minister, the State of Jammu & Kashmir would not accede to India as he was for Independence of the State. If that were to materialise, that was also an achievement for Pakistan and a step further to defeat India over Kashmir. With this confidence in Kak, who was toeing the second option of the British policy for the State, Jinnah did not want to do anything which would embarrass the position of Ram Chandra Kak.

"...Khursheed, Mr. Jinnah's Private secretary, wrote to the League leader in Jammu not to embarrass trusted Kak in any way, but to have complete confidence in him."[29]

Jawahar Lal Nehru believed that it was Ram Chandra Kak who tried to suppress National Conference and was a great impediment in the relations between National Conference and the Maharaja.

"Nehru pointed out the influence which the Maharaja's Prime Minister, Ram Chandra Kak, had over him. Nehru held Kak responsible for the Maharaja distancing himself from the National Conference and from the possibility of joining the Dominion of India."[30]

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[28] Mohamad Ali Jinnah, India News, 13 July 1947; Kashmir in the Crossfire. P.123.
[29] M. Ganju, This is Kashmir: With Special referrence to UN.
[30] Jawahar Lal Nehru's Note to Lord Mountbatten, 17 June, 1947.

CHAPTER - II

CHANGING ALIGNMENTS

WAVERING LEADERS

Quit Kashmir movement made no headway, nor Muslim Conference gained any political mileage. The division of India was becoming a reality. Consequent birth of Pakistan on the debris of Indian secularism and national pride was to occur both, as an acclaimed and awful event. The creation and existence of Pakistan was bound to add to the complexity of the situation in Jammu & Kashmir State. Its politics was, therefore, in melting pot. Position of the State was though politically stable but the future unpredictable.

To fight out Sheikh Abdullah and his National Conference, Prime Minister, Ram Chandra Kak enlisted the support of Muslim Conference, a pro-Pakistan Party. The Quit Kashmir movement started in May 1946, demanding the Maharaja to vacate. It was confined to the Valley of Kashmir only. Ram Chandra Kak was able to keep it at low ebb. A new political understanding and alignment was apparently taking shape in the State on the retracted agenda of all the concerned.

The Muslim Conference was, by and large, supporting Kak and not Sheikh Abdullah's "Quit Kashmir" movement against the Hindu Maharaja. This pro-Pakistan Muslim Conference was avowedly against Shiekh Mohamad Abdullah and his National Conference than against the Maharaja. They treated the Maharaja somewhat with reverence and regarded him "Zile-Illahi" (Shadow of God). There was a definite socio-cultural undercurrent with religious tolerance which also had bearing on Kashmir politics. Muslim Conference was, no doubt, toeing the politics and following the ideology of Muslim League which it represented in the State. It was a communal party wholly in form than in substance.

After partaking in the World War II as a Major General of the British Army, commanding State Forces, Maharaja Hari Singh returned to Kashmir in 1945.On his home coming safely, the people desired to accord him a mass reception. He, therefore, decided and visited the city of Srinagar by an open Automobile. All the routes he passed through, were decorated by the inhabitants of the respective areas, with buntings, archs etc. The city wore a festive look. The male residents were out on the streets spontaneously to greet the Maharaja and the ladies witnessed it from the house windows. The Maharaja was given

unprecedented welcome and applause. It reflected popularity of Maharaja Hari Singh among all sections of the people, whether committed politically or not, owing allegiance to any party or not, they all received him heartily.

In the downtown at Nawakadal, Srinager, however, inhabited mostly by the supporters of Muslim Conference, one small motto was found hanging, reading "Hindu Aur Muslim Do alahida Quamain hain" (Hindu and Muslim are two separate nations). This feeling imbibed by the cadre of Muslim Conference was not a healthy political trend, albeit it was not practised on a public level. But it reflected the politics of Muslim League: Notwithstanding this, the Muslim Conference was not opposing, much less vociferously, the Maharaja Hari Singh on the ground of his being a Hindu Maharaja or a feudal Autocrat.

The local political considerations and compulsions had also driven the Muslim Conference headed by Mirwaiz Moulvi Yousuf Shah to support the Maharaja, tacitly though, and not Sheikh Abdullah and his National Conference during the Quit Kashmir movement. The deep rooted mutual antagonism between Sheikh Mohamed Abdullah and his followers on the one hand, and Mirwaiz Moulvi Yousuf Shah and his followers on the other, was one of the vital and distinguishable factor of Kashmir politics. It was responsible for the constant political feud between them, causing even occasional scuffles. They, therefore, chose generally to tread the cross paths in the opposite directions. Their political deep rooted divergence and animosity became more poignant and crystal clear with the passage of time. Muslim Conference was supporting Muslim League and its demand for Pakistan. In other words, it meant that the Muslim Conference stood for Accession of Kashmir to Pakistan. In ordinary course, the Muslim Conference would have come out vigorously on the streets to demand Kashmir's Accession to Pakistan but it was not to be, mainly due to lacking comparative and combative strength and spirit as against National Conference.

The Muslim Conference, overtly a branch of All India Muslim League and supporter of Pakistan, covertly aligned with the move of Ram Chandra Kak for independence of the State. Its leadership was sanguine that the Dogra Rajput Ruler could not be persuaded nor would be prepared to Accede to Pakistan. In view of the political collision between Sheikh Abdullah and the Maharaja, the via media for them was to lend support to Kak's move for Independence, converting Kashmir into the buffer between India and Pakistan. It did not mean that Maharaja Hari Singh was not in favour of India. He was

caught in a political vortex. He felt harassed and annoyed by Nehru, who became an open threat to his power and survival due to his full and out of way support to Sheikh Mohamed Abdullah. The Maharaja had, therefore, no future, in case he acceded to India.

Obviously, the Maharaja took time to mend his fences. It was both, interesting and surprising, that Muslim Conference made compromise in its politics and on the issue of Pakistan. A nexus came into being, therefore, between the Prime Minister Kak and the Muslim Conference. Its leadership relied more on Prime Minister Kak for Independence than on Maharaja Hari Singh. They doubted the later and feared that he might succumb to his urges of Indian patriotism at any conducive and congenial time. A rethinking in leadership of Muslim Conference was set amidst dissension. It made a departure from its goal of merging with the Islamic State of Pakistan and saw the salvation of the State in remaining Independent.

One of the most influential and important leader of Muslim Conference in the Valley of Kashmir, Mirwaiz Moulvi Mohamed Yousuf Shah sought to dissuade Jawahar Lal Nehru from supporting National Conference in Kashmir. The Mirwaiz thereby impliedly opposed Sheikh Mohamed Abdullah and the Congress for having any truck with National Conference. In a guarded press statement dated 25th September, 1946, couched in words of anger and resentment, Mirwaiz Moulvi Mohd.Yousuf Shah said:

> *"The Hindu capitalists want to get the State into their (Indian) grip, but I warn that if the Government of Jammu & Kashmir gets terrified at the might of the Congress and strikes an unholy alliance with the National Conference fascists, it will have to face the terrific opposition of the Muslims. And this sinister alliance will be smashed to pieces. The Muslims of Kashmir have warded off Pt. Nehru's invasion in 1940, 1945 and 1946. Now he is again to make a fresh attempt and it is the duty of the Kashmir Muslims particularly and all the well wishers of the country to smash up this onslaught".*[31]

This statement manifestly indicated the trend of opposing Sheikh Abdullah's politics and Nehru's support to him. It also points out deviation from the stand and path of Pakistan.

This political alignment between Prime Minister Ram Chandra Kak and the Muslim Conference received further support from Muslim Conference on the State level. The President of Jammu & Kashmir State Muslim Conference, Chowdhry Hamid Ullah Khan in a statement on May 10, 1947 categorically pleaded for Independent

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[31] "Kashmir Through The Ages". Vol I, P.35

Kashmir and not for Accession of Kashmir to Pakistan. It sprang a surprise and was a landmark political development in the State, which struck at the roots of Muslim League and Pakistan in Jammu & Kashmir. It was obviously total failure of Muslim League in the State. The statement reads:

> *"If Kashmir has to keep itself aloof from carnage and bloodshed, it should lose no time in adopting a strong and bold policy. His Highness the Maharaja Bahadur should declare Kashmir independent immediately. A separate Constituent Assembly to frame the Constitution for the State, according to the wishes of the people, should be established at once. His Highness the Maharaja Bahadur will receive the co-operation of Muslims in carrying out this policy. The Muslims form 80 percent of the population. They are represented by the Muslim Conference. The Muslim will welcome the Maharaja Bahadur as the first Constitutional ruler of independent and democratic Kashmir".*[32]

The Muslim Conference, therefore, hesitated to raise openly the slogan of Pakistan and to campaign for it publicly. It did not, therefore, firmly plead for Accession of the State to Pakistan either. The Maharaja lawfully holding the trump card of determining the future status of Jammu & Kashmir, could not be offended by the Muslim Conference as Nehru did. He could also be not compelled to join Pakistan, its leadership knew it. The least this Party could do, was to see that the Maharaja did not accede to Indian Dominion. To guard that, was its victory. Short of acceding to Pakistan, the Muslim Conference had to content with seeking Independence of the State.

This new strategy and alignment of Muslim Conference was a slap on the face of Muslim League and the emerging Dominion of Pakistan. It gave a tremendous set back, therefore, to Muslim League and its underlying policy towards Kashmir. While exposing the ideological shallowness of Muslim League in Kashmir the so-called silly claim later (in vacuum) of Pakistan over Kashmir, stood altogether denied and defied.

The another political alignment was emerging between Sheikh Mohamed Abdullah and his National Conference on the

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[32] Kashmir Through The Ages, Vol I PP.350-51. Chowdhry Hamid Ullah Khan belonged to the Poonch area of the State of which some part is now under Pakistan occupation. His statement significantly reveals that Muslims were not against the Maharaja but a section of them wanted the Maharaja to declare Independence of Kashmir. This statement is important as it controverts those authors, particularly foreign, who say that the Muslims had risen in revolt against the Maharaja Hari Singh, first in Poonch on some non-relevant and assumed factors to the political scenario of Kashmir in the context of partition era of India.

one hand and Jawahar Lal Nehru and Congress Party on the other. These two aligned forces, however, locked horns in Kashmir not uncommonly and with the other local forces not unoftenly. Sheikh Abdullah suspected some foul play by Pakistan if he could not come out of the Jail. Birth of Pakistan was death knell for him. He could not feel Independent Jammu and Kashmir also safe for himself and for his political assertion. He was more panicky and more concerned about his and his family's survival than the Hindu/ Sikh minority sitting on the volcano. The safety of his person and his family, according to Sheikh Abdullah was in acceding of the State to India:

> *"Sheikh Abdullah was then in jail as a result of his unsuccessful " Quit Kashmir" adventure. The trend of public opinion outside made him worried and restless. He wrote a letter to a friend in Jammu which was published in the Congress Press praying to the Maharaja that he should neither remain independent nor join Pakistan but declare the State accession to India forthwith. Sheikh Abdullah offered the unequivocal support of his National Conference to such a declaration"* [33].

After the strong persuasion and pressure from Nehru and Congress Party, Prime Minister, Ram Chandra Kak was deposed by Maharaja Hari Singh on August 11, 1947. He was put under House arrest and later imprisoned. It sent shock waves to the Muslim Conference. Its leadership and cadre of workers who apprehended that the Maharaja paved the way for Kashmir's Accession to India. Apparently, Kak's removal was clear indication about the direction that the mind of Maharaja Hari Singh worked for. It seemed to be a prelude to the declaration and execution of Instrument of Accession to India. However, Kak's removal alone did not clear the decks for Accession of the State to India, nor it was total reversal of the policy pursued by the deposed Prime Minister. It was only a step but significant one, in the process towards that goal. Sheikh Mohamed Abdullah's release, his likely role and position as well as the stand of Government of India towards the Maharaja and other factors had to be addressed seriously before the Maharaja could take the final decision with respect to the Accession. If the Maharaja really wanted to opt for "Independence" as some wrongly believe, then there was neither any occasion, nor any fun in dismissing his Prime Minister Ram Chandra Kak at that critical juncture.

A counter argument that the Maharaja himself did not say anything in this regard in his covering letter dated October

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[33] Prem Nath Bazaz, Truth about Kashmir, Kashmir Through The Ages. ed Suresh Sharma, Usha Sharma Vol. II PP 65- 66

26, 1947 addressed to Lord Mountbatten, Governor General of India does not belie it. When Mahatma Gandhi visited Kashmir in early August, 1947 and met Maharaja Hari Singh, he had impressed upon the Maharaja the imperative need of Kashmir's Accession to India and release of Sheikh Mohamed Abdullah. Mahatma Gandhi had spoken to the Maharani also for a positive response and reaction and Gandhi addressed her as "Raj Matta". He clarified to her that as "Raj Matta", she was also his "Matta" (mother), Gandhi conciliated the Maharani, though far younger to him. He then placed his point of view before her. Shortly after Mahatma Gandhi went back to Delhi from Srinagar, Prime Minister Ram Chandra Kak was dismissed. It was first salvo of the Maharaja Hari Singh. He, however, did not release yet Sheikh Mohamad Abdullah and offered on August 12,1947 to enter into Standstill Agreement with both, India and Pakistan. It gave a bit of relief to the anti Sheikh Abdullah and anti India lobby.

Regarding the patriotic urges and spirit of unity of the Maharaja as also the role and enthusiasm exhibited by him in the Round Table Conference (1930) and thereafter welcoming the scheme of All India Federation, a pre–partition proposal; can be a pointer.

"The State of Kashmir was among the first few States to declare its whole-hearted support to the idea of Federation. His Highness the Maharaja, speaking at the Conference, declared that Federation was a higher ideal than isolation..... To British India, Federation ensures unity of our country and prevents the hopeless splitting up of our motherland into two distinct political entities working in water-tight compartments... I am inspired by the hope that we are laying the foundation of a future for our country more truly in accord with its genius and traditions, with greater potentialities for future development than is possible under any other scheme that we can think of today."[34]

Maharaja Hari Singh used the word "Motherland" for India in his speech and not for the State of Jammu and Kashmir. It showed that he was an Indian patriot and that he treated always the State of Jammu and Kashmir in his mind as part of India, beyond any shadow of doubt. The reaction of Maharaja Hari Singh to the proposal of Cripp's Mission (1942) to India was laudable and significant. The Maharaja stood up and pleaded for one united India and proved himself a great Indian patriot who had to pay heavily for his patriotism. The Maharaja is reported to have said:

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[34] Kashmir Through The Ages, Vol I, PP. 340-341.

> *"... ... ... It was the duty of the Princes to show that as patriots, they were desirous that their countrymen should feel themselves the equal of nationals everywhere in the world... His Highness urged that the Princes should not logically object to dealing with a Central Government in India which the crown might constitute in future, and they had no reason to assume that they would not get a square deal from such a Government."* [35]

The then State Prime Minister, Sir N Gopal Swamy Ayyangar replying certain points raised about Cripps Mission in the Praja Sabha, clarified the policy of the Maharaja's Government on April 4th, 1942 and said:

> *"Kashmir would welcome the formation only of a single Indian Union, and would do its utmost to co-operate in the work of framing a suitable constitution for it so as to enable it when that constitution is made to accede to it. He declared that the Jammu and Kashmir State and its people would oppose any tendency towards the formation of multiple unions, as had been suggested in certain quarters that Indian States or groups of them should be given liberty of not joining the Indian Union and of forming one of their own, and the consequent disruption of what should continue to be a United India".* [36]

Could a headstrong and self respected Ruler like Hari Singh, ever think of going against the interests of his motherland- India. He was publicly committed to be for single United India. He always cherished the idea of union of India with one Centre and was deadly against the split of India and formation of different Unions and Centres of India. Maharaja Hari Singh was aware of the difficulties in opting for Independence and that too in abnormal conditions. He would not compromise with his conscience to go against his motherland - India. The State of this intractable and headstrong Dogra Rajput Prince with unshakable determination for obvious reasons, was to remain and continue to be a part of Indian polity. He could neither think of Acceding to Pakistan nor remaining Independent. To estimate him in those terms, is to disparage his personality and to injure his sense and sentiment of Indian patriotism. To dub him so, is to belittle him and to exploit him politically. He was more clear in it than many of the leaders. The assertion of his heir apparent, Dr. Karan Singh

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[35] Kashmir Through The Ages, Vol I, P. 349.
[36] Ibid, PP. 340-41.

that his father (Maharaja Hari Singh) wanted to remain "Independent" does not, therefore, pass one's conviction. I differ with this view as it is not borne out by the Late Mahraja's conduct, nature, actions and the line of thinking and utterances.

About Maharaja and the Accession to India, Prem Nath Bazaz says:

> *"Had the Maharaja not given ample proof of his determination to accede to India.... There is reason to believe that the tribesmen would not have entered the State."*[37]

Sheikh Abdullah tried to consolidate his power, arbitrary and despotic. With the help of Government of India, he thrust and imposed himself on the whole State and claimed to be its sole leader and representative, which now his son, Dr. Farooq Abdullah the Ex. Chief Minister of the State, claims to be. It had swollen Sheikh's head and he perhaps thought that he had not only replaced Maharaja Hari Singh but also virtually stepped into his shoes.

After his release and before his reinstallation to power, Sheikh Mohamed Abdullah had deputed G. M. Sadiq to Pakistan to negotiate a compromise and reach an understanding in regard to Kashmir with Mohamed Ali Jinnah and other Pakistani authorities on behalf of National Conference. Sheikh Mohamad Abdullah was very keen to patch up with Pakistan. He, therefore, arranged sending a man from Jammu also to help Sadiq in negotiations. This man Abdul Majid Qureshi was an old political worker of Jammu. Long after this, he wrote an article about the event and the task assigned to him. Justice Mohamad Yousuf Saraf has also referred to him and quoted him:

> *"On the 18th of October 1947, I received a message from Moulvi Mohamad Sayed Masudi at Amira Kadal Srinagar that Sk Mohamad Abdullah had ordered me to leave for Lahore immediately in order to take part in the negotiations that were already going on there between Kh. Ghulam Mohamad Sadiq and the Muslim League Government. I was also told that Sk Mohamad Abdullah wanted me to ensure that the talks were not broken under any circumstances. 'He reached Sialkot on 20th October to make arrangements for his family. He then proceeds: "I spent the 21st of October in taking stock of the situation and on the 22nd when I was preparing to leave for Lahore, news came that tribesmen were about to enter Muzaffarabad in aid of the Muslims of Kashmir. I reached Lahore on 22nd October but an hour before my arrival,*

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[37] Prem Nath Bazaz, Truth about Kashmir, Kashmir Though The Ages.P 69, Vol - II

Kh. Ghulam Mohamad Sadiq and his companions had, on hearing of the tribesmen's entry, flown to Delhi."[38]

Jinnah did not grant access to G. M. Sadiq as he had made all preparations to invade Kashmir. Sadiq met, however, Prime Minister of Pakistan, Liaqat Ali Khan. He totally declined to accede to any of the request of G. M. Sadiq. While speaking on behalf of Kashmir in the Security Council Sheikh Mohamed Abdullah clarified above in the following words:

"Some friends from Pakistan met me in Srinagar. I had a heart to heart discussion with them and explained my point of view……. While I was engaged in these conversations and negotiations with friends from Pakistan, I sent one of my colleagues to Lahore, where he met Prime Minister of Pakistan, Mr. Liaqat Ali Khan, and other high dignitaries of the West Punjab Government. He placed the same point of view before them and requested that they should allow us time to consider this vital question (of Accession), first helping us to achieve our liberation instead of forcing us to declare our decision one way or the other. Then, one fine morning while these negotiations were proceeding, I received news that a full fledged attack had been carried out by the raiders on Muzaffarabad, frontier town in the Kashmir province."[39]

Sheikh Abdullah's cards were not clear, nor his stand was unambiguous and firm. His fundamentals of politics had been flexible and himself wavering. After his release, on 29 September 1947, he again started duping those who supported and helped him and also those who opposed him and not trusted him. He therefore, raised a new slogan, "Ilhak say Pehlay Azadi" (Freedom before Accession). He thereby opened new vistas to start new bargaining. After release, he addressed a public meeting at Hazuribagh, Srinagar. He said:

"The sub–continent was united when I went to prison. Today it stands divided into two parts...We will adopt the way that will take the people of Kashmir to the goal of freedom, welfare, salvation and progress. Taking of any decision is not possible during subjugation. Therefore, a Responsible Government should immediately be installed in the State, which on this delicate question takes proper course to protect the rights and interests of the State people. We cannot decide on Accession unless we got the

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[38] "Azad Kashmir" weekly, Muzaffarabad, dated November 4, 1959, Mohd. Yousuf Saraf in Kashmiris Fight For Freedom, Vol. II. P. 802. Also Kalim Akhtar in his book.

[39] Sheikh Mohamed Abdullah's speech before the U N Security Council on 5 February 1948.

internal freedom. As such, our slogan is "Freedom before Accession"[40].

After invasion of the State of Jammu & Kashmir by Pakistan, the Instrument of Accession was executed on 26th October 1947. Sheikh Abdullah was appointed by the Maharaja as Head of the Administration on October 30, 1947. In his first address to the Government Officers, Sheikh Abdullah said.

"Pakistan is not our enemy. We have the same quantum of respect for Jinnah Sahib even now which we had earlier. We want to settle the Kashmir Dispute by mutual negotiations. For that matter even if I will have to go to Karachi to meet Jinnah Sahib, I am ready for that also. Jinnah Sahib was, however, intoxicated with power then. He did not deem it consistent with his dignity to talk to this nation lacking wherewithal".[41]

After coming into power, Sheikh Abdullah's functioning and his above address to government officers, unfolded his confusion rather than clarity of his politics: He started creating problems than solved any. Firstly, he termed Kashmir situation wrongly as "Dispute," which he had no right to say; Secondly, he showed willingness to have mutual negotiations with Pakistan on Kashmir which he had no authority and competence to declare or enter into. He could not realise his dependent position as well as his responsibilities as Head of Administration after Instrument of Accession to India was executed by the Maharaja; it was at the most, a matter between the Maharaja and the Government of India. Sheikh Abdullah could not figure in the realm of law as he had no legal or Constitutional position other than being a moral force behind the Government of India. Thirdly, he treated the Kashmiris as a nation (Quam) which was in total disparagement and contravention to the Indian sovereignty and nationhood. Was it any third party nationhood or the new "Two Nation" theory on lines of the Muslim League? Fourthly, he started monopolising the power in the State and got the services of State Prime Minister, Mehar Chand Mahajan terminated prematurely, much to the irritation of the Central Home Ministry.

Sheikh Abdullah, pampered by Prime Minister of India, Jawahar Lal Nehru, had exclusively his way in the State of Jammu & Kashmir and wielded absolute power. It ultimately gave him a set back. In a State of multi lingual, multi religious multi ethnic, multi cultural and also multi climatic and multi geographical terrains and units,

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[40] "Aatish-e-Chinar", Autobiography of Sheikh Mohamed Abdullah. P. 388
[41] Ibid P. 321.

Sheikh Abdullah and his National Conference thrust themselves to rule in a manner they chose to, and without any accountability. Persuasion and pressure was mounting on Maharaja Hari Singh to release Sheikh Mohamed Abdullah. On learning about this pressure and the impending release of Sheikh Abdullah his opposite camp plunged into gloom.

In view of Sheikh Mohamed Abdullah's apology tendered to Maharaja Hari Singh and the Congress pressure, the Sheikh was released from Jail on 29th September, 1947 before completing his term of sentence.. He went to the Maharaja thereafter, for a courtesy call and presented him a golden bullion as a token of respect reverence and loyalty to him.[42]

Some of the State Muslim Conference leaders had grievance with the Muslim League leadership for their indifferent attitude towards them. They were already embarrassed by unflinching Congress support to Sheikh Mohamad Abdullah and his National Conference. Jinnah was trying to placate Maharaja Hari Singh and to ensure that in any case if he did not Accede to Pakistan, he should in no case Accede to India. He, therefore, preferred not to be vociferous for Muslim Conference.

This lack of sympathy and non–interference in the affairs of the State by the leadership of Muslim League, had disillusioned the leaders and cadre of workers of Muslim Conference in Jammu and Kashmir State. Shaukat Ali, General Secretary of Muslim Conference communicated this grievance to Jinnah through his Private Secretary. He wrote to Jinnah from Riasi sub- jail on March 24, 1947:

> *"What we are surprised about is the complete indifference and nonchalant attitude of the League viz.–a–viz. Kashmir... you have been over cautious not to offend the Princely order, so that they may support you, and not the Congress, in the future Indian Constitution making, which they too have not done' No, volunteer, he complained, was sent to help with the January elections. Every body has forgotten Kashmir, look at the Congress and what they are doing for the National Conference......"*[43]

Kashmir symbolised a cause for Jawahar Lal Nehru in particular and for Congress in general. A cause so dear to Nehru that he never compromised on, mounting problems and hindrances notwithstanding. Kashmir was a prestige issue for Jinnah and Muslim League but for Nehru an ideal inspired by and rooted in emotions and vision of secular polity.

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[42] A former MP (Rajya Sabha) from Jammu and veteran journalist Mr .D.C Purshant has told this author about Sheikh Abdullah's paying this obeisance to the Maharaja Hari Singh after his release from jail.
[43] Victoria Schofield, Kashmir in the Crossfire, P. 116

CHAPTER - III

STANDSTILL AGREEMENT AND AFTER

The Maharaja of Jammu & Kashmir State after considering the allied facts and factors, strayed into offering Standstill Agreement to both the new Dominions, India & Pakistan, coming into being on August 15, 1947: The political picture of the subcontinent of India was hazy and obscure, excepting that India was no longer remaining united one. The Maharaja holding the Trump Card found this fluid situation unhelpful either to give out his mind or to make a declaration of Accession to the Dominion of his choice. The time for announcement of his decision under the prevailing circumstances, appeared to the Maharaja as premature. He wanted some respite.

To seek continuance of administrative services to Kashmir as usual, (as the word standstill signified) with both the Dominion after lapse of British Paramouncy was the interim measure that the Maharaja wished to adopt. Maharaja Hari Singh, caught in a precarious position, defaulted and delayed finalisation of the matters, which ultimately contributed to the abnormal and explosive situation that ensued. But the Government of India was no less responsible for shaping the oblique situation. If Government of India would try to advance justification for her rigid stand and policy adopted to favour Sheikh Mohamed Abdullah and his National Conference, the Maharaja could also offer reasons and grounds in his defence and responsible for delay in Accession. Government of India legally depended on Maharaja Hari Singh for Kashmir's accession to India. In the interests of the people and the country, both the powers- dejure and defacto (to use the latter word here very liberally) were required to be harmonised under the then developing volatile situation, which the Government of India utterly failed to do. It was deliberately so in fond of Sheikh Abdullah and his National Conference.

The Indian Government suffered from singling out Kashmir and holding usound ultra views about it; finishing the Autocracy first and transferring the State power to Sheikh Mohamad Abdullah and his party. The Indian Government headed by Nehru, over-rated Sheikh Mohamad Abdullah but underestimated Maharaja Hari Singh. It resulted in taking of urgent measures to strive for liquidation of power and rule of Maharaja Hari Singh and to propitiate Sheikh Abdullah and his National Conference even before the Accession. This distinctive and excessive policy of ultraism adopted by Government of India in regard to Kashmir, has been the genesis of Kashmir problem, to a greater extent.

The chief reason for this situation being Congress leader's misplaced trust and blind faith in Sheikh Mohamed Abdullah, evincing corresponding threat to the person, pelf and power of Maharaja Hari Singh. However, to clear the decks for execution of Instrument of Accession to India in future, the first indicative step of Maharaja Hari Singh was deposition and house arrest of his Prime Minister, Ram Chandra Kak on August 11, 1947. Till then State of Jammu & Kashmir had no road access to India, so the position was obscure and confusing. The Radcliffe Award was announced only on 16th August 1947. Viceroy Lord Mountbatten got the announcement of Boundary Commission Award delayed till then, so that the displacement of the affected people did not mar the independence celebrations in the new Dominions of India and Pakistan. The execution of Instrument of Accession or of Standstill Agreements were to be brought about and conveyed by or before 15th August 1947. In order to get some time and continuing the "Standstill" arrangements, the new Prime Minister of Jammu and Kashmir, Janak Singh, sent a telegram to Government of India on 12th August, 1947 in this regard. This telegram reads:

"Jammu and Kashmir Government would welcome Standstill Agreement with Union of India on all matters on which these exist at the present moment with outgoing British Indian Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements."[44]

The Government of India, however, desired negotiations on the matters before taking any final decision. The words "Union of India" used in the telegram are significant. The reply telegram dated 15th August, 1947 from Government of India to the Jammu & Kashmir Prime Minister said:

"Government of India would be glad if you or some other Minister duly authorised in this behalf could fly to Delhi for negotiating Standstill Agreement between Jammu & Kashmir Government and Indian Dominion. Early action desirable to maintain intact existing agreements and administrative arrangements."[45]

Maharaja Hari Singh had hinted his covert willingness to join and remain in the Union of India and so used the words "Union of India" in the telegram, and not the words "Dominion of India" or "Government of India." Apparently, it was in the mind of

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[44] Telegram by Kashmir Government dated August 12th, 1947 to Government of India for Standstill Agreement

[45] Reply by Government of India August 15th, 1947 to the telegram of Kashmir Government regarding Standstill Agreement.

the Maharaja to join the "Union of India", sooner or later, which preference he had made in fact, long back.

It was a pointer to the Maharaja's willingness to remain and continue in the fold of India. The ruler of Jammu & Kashmir State was not prepared to walk out of the Union of India. The Maharaja need not to have essentially Standstill Agreement with Government of India. With the meaningful difference in the content of this telegram, obviously not otherwise with the other one even dated sent to Pakistan. To appreciate this properly, it has to be considered in juxtaposition to the views expressed by Maharaja Hari Singh in the Round Table Conference in 1930, welcoming the federation of India and signifying willingness to join it. In their reply telegram dated 15th August, 1947, Pakistan Government agreed to have "Standstill Agreement of Jammu & Kashmir." On the same day Kashmir *"actually concluded such an agreement with Pakistan."*[46]

At the time of partition of India, the roads to Kashmir for supplies, business transactions, ingress and egress, were only through the territory of West Punjab as the area came to be known then for purposes of differentiation, forming as it did, a part of Pakistan. Obviously, therefore, the territory falling within Pakistan and comprising Pakistan had all importance for and vital impact on the State of Jammu & Kashmir for patent reasons. The then existing rail and road links of the State, connecting it, beyond its territories, with the subcontinent, were joining territory of Pakistan. As such, creation of new Islamic State of Pakistan had a direct bearing on the day to day business and commercial transactions and day to day political and other activities and problems of Kashmir and Kashmiris, than it had for Hyderabad and Junagarh.

Urgency in accepting the "Standstill" offer of Kashmir by Pakistan, had not the same urgency and utility for its acceptance by India. Independent of Standstill Agreement, India had rights and duties towards the State of Jammu & Kashmir, being the Central Government of the original country which Pakistan had none. In the days of partition, Muslim League had said: Kashmir was a jugular vein of Pakistan, meaning thereby Kashmir was to be acquired by Pakistan at any cost as it was most essential for her survival. But I feel Pakistan was under those circumstances, a lifeline for Kashmir. Jinnah had said, Kashmir was a blank cheque in his pocket. Had not a headstrong and valiant Indian patriot Dogra Ruler like Maharaja Hari Singh been there in the saddle, the above things perhaps, might have come out true! Beset with trying and adverse circumstances, the Maharaja faced many odds and came across many hurdles. Depending on his limited resources with indifferent and cross sections of the population and vast borders defended and secured not adequately. Being a peace time, albeit with

[46] Kashmir- A Factual Survey, Kashmir Through the Ages, Vol. II P. 266.

apprehensions of disturbances in the State, the ruler had to withstand the added political opposition and harassment by the Indian Government and the Congress leadership. It was to pressurise him to transfer power to Sheikh Mohamad Abdullah and his National Conference. Could any Ruler, let alone Maharaja Hari Singh, Accede to India with this open provocation to his person and power and threat of liquidation to his Institution of Autocracy? The Maharaja was harassed and annoyed by the Government of India for the sake of Sheikh Mohamad Abdullah. Government of India was certainly betting on a wrong horse! At the tactless handling of the Maharaja, the Indian Government complicated the matters more and further exposed the State people to risks and threats.

A forlorn and severely criticised Maharaja, Hari Singh was solely fighting for all and trying to overcome hurdles one and all. He was conscious of many a hardship and aware of many of problem, the intensity and acuteness of which perhaps, others were not perceiving, nor so, associating and identifying to remedy them or seek their solution. Placed in an unique and acute political vortex, combating virtually, a life and death struggle, none was coming forward to lend the Maharaja hope and succour. Before the Award of Boundaries, announced by Sir Cyril Radcliffe, a British lawyer, determining the borders between India and Pakistan, no surface link of Kashmir with dismembered India was visible or in the sight; Nehru's utopian theory of linking up the State with India through Bhadarwah at the foot of Shivalik mountainous range of the Himalayas in the State from Chamba, a township in Himachal Pradesh, could be inconvenient and hazardous. It showed his strong determination to have and retain Kashmir at any cost.

It was, however, Nehru who managed an easy and convenient road link of Kashmir with India through Pathankot Tehsil of adjoining Punjab. The three tehsils, Gurdaspur, Battala and Pathonkot of overall (slightly) Muslim majority District of Gurdaspur, were allotted by Radcliffe Award to India, connecting the State of Jammu and Kashmir by surface link with India. It was got done by Jawhar Lal Nehru, as the sources close to him then had hinted and indicated, but not without paying a heavy price. Radcliffe compensated Pakistan by changing Lahore [47] from Indian map to Pakistan. Further a Muslim League leader Nawab Mamdot was placated by allotting a substantial portion of District Ferozpur in which the Nawab's Estate was included, to Pakistan.

About exercise of the right of options by the Princely State's of India, relating to the future status of these States

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[47] Read also, Author's book, "Crisis in Kashmir".

including Jammu & Kashmir, the Muslim League leadership was not unambiguous and clear. It had no sympathy with Muslims either and was as much hypocrite as polemic:

> *"Whilst reaffirming the policy of the Muslim League not to interfere with the internal administration of the State or the grave and serious issues that face the Maharaja and his Government, claimed that they were deeply concerned with the welfare of the Mussulmans in the State".*[48]

Pakistan, in pursuance to its ulterior motive of grabbing Kashmir, violated openly the Standstill Agreement of the State. She *"stopped supplies of various essential commodities to Kashmir for which the State had made payments in advance."*[49] It caused an economic blockade of the State and conditions famine like too, were created by Pakistan which she could not do legally. This all was in breach of the Standstill Agreement and in violation of the law. It was betrayal of the State Government but more so of the people of the State of Jammu & Kashmir.

Standstill Agreement had the only significance of maintaining the administrative facilities and services like Posts, Roads, Railways, Central excise etc. It was previously a sort of mutual economic relationship between Kashmir and rest of India. On a smaller pattern, the State had its own Telephone Department and Telegraph arrangements. But in a broader sense and on over all basis, these were also, by one way or the other, excluded from falling within the domain of Indian Central Government. It was, therefore, under Pakistan now, though for the limited purpose and transitory period. It did not, however, mean vesting of any special, additional or ordinary powers in Pakistan over the State of Jammu & Kashmir under the cover of Standstill Agreement.

Pakistan was watching the Kashmir political situation and got shocked over certain political developments taking place in the State. Earlier Pakistan received set back in the form of removal of Prime Minister, Ram Chandra Kak from office on August 11, 1947 and release of Sheikh Mohamed Abdullah from prison subsequent there to i.e. on 29th September 1947.

Pakistan Government started creating initially economic unrest in the State by stopping in West Punjab (Pakistan) supplies of all the essential and other commodities and goods, meant for Jammu & Kashmir. These included, Petrol, kerosene oil, and food material like flour, salt, edible oil, sugar, medicines, clothes, footwear etc. The trucks carrying these commodities and goods to Kashmir, were stranded in West Pakistan as it was called then. Communications were disrupted and

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[48] Victoria Schofield, Kashmir in the Crossfire, PP 112 – 13.

[49] M. Ganju, This is Kashmir: With Special Reference to UNO, Kashmir Through The Ages, Vol. I PP 171, 72 ed. Suresh K. Sharma and Usha Sharma.

Rail and Road traffic to the State of Jammu and Kashmir interrupted and then suspended totally.

Kashmir Government lodged a protest with the Pakistan Government against this economic blockade. Their Foreign Minister informed the State Government on October 2, 1947, that *"drivers and lorries, for instance, are reluctant to carry supplies between Rawalpindi and Kohala..."*[50]

Due to economic blockade of Kashmir by Pakistan Government, the common masses of Kashmir were hard hit. Muslim League and Pakistan Government have always pretended to be sympathetic to Kashmir Muslims which was funny and turned out to be a lip sympathy only. It was not that all the communities other than the Muslim, suffered in the State, nor was that the Kashmir Muslims were rescued and salvaged from this economic strangulation or from subsequent armed and other onslaughts made on the Kashmiris: All the communities suffered in the State including Kashmir Muslims from this economic strangulation or from subsequent armed and other onslaughts made on the Kashmiris by Pakistan.

Muslims had their share of sufferings at the hands of Pakistan, which had only motive of ruthless expansion and annexation of Kashmir and no love for Kashmir Muslims. Pakistan occupied areas of Kashmir have continued to groan under the influence of military junta as they are as of now, divested of the democratic rights. Neither of them have had any love for the people of Kashmir but have always had a covetous eye on the land they inhabited and the others live in, to avoid or neutralise the likely provoking adverse reaction of Kashmir Muslims against this harsh measure and inhuman repressive policy of Pakistan, she created communal tension and made inroads into Kashmir. It started from the vulnerable places and areas where she could send arms, ammunition and the armed tribesman to flare up the situation.

Communal disturbances were instigated by Pakistan in the former "Jagir" of Poonch and the *"Muslim farm workers in Poonch began an uprising against their Rajput landlords, killing some of the local Hindu population and driving others out from their homes."*[51]

Pakistan Government, however, tenaciously stuck to its guns and consistently maintained its stand of innocence, non-interference and non- contribution to the deteriorating conditions and brewing danger in the State.

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[50] Kashmir Through The Ages, Vol II P. 276

[51] Patrick French, Liberty or Death India's Journey to Independence and Division, P. 374;

"On 2 October 1947, the Government of Pakistan denied that pressure was intended...it then proposed to send an officer to Srinagar, Major (later Colonel) A.S.B.Shah (at that time joint Secretary of the Pakistan Ministry of Foreign Affairs which was responsible for matters relating to the State of Jammu & Kashmir), to discuss the improvement of the supply routes from Pakistan. The Government of Jammu & Kashmir, on 8th October 1947, declined to receive Shah until the Poonch situation, for which it was said Pakistan was largely responsible, had been brought under control"[52]

Pakistan Government's denial of adopting pressure tactics and Kashmir Government's refusal to talking her notwithstanding, the Pakistan Joint Secretary Col. A.S.B. Shah visited Srinagar but only to controvert and negate himself the stand and assertions of Pakistan Government. Shah had brought with himself even the blank form of Instrument of Accession to Pakistan. It is further revealed:

"Shah went up to Srinagar anyway, where he had singularly futile discussions with various officials including the new Prime Minister Mehar Chand Mahajan (who formally assumed office on 15 October 1947). Mahajan related in his memories that Shah had brought with him a blank Instrument of Accession to Pakistan which he hoped the Maharaja would fill in and sign."[53]

The cat was out of bag. The intentions behind the trouble created by Pakistan in Kashmir were exposed. It was done to achieve the Accession of Jammu & Kashmir to Pakistan. Myth of the Pakistan's ostensible stand of neutrality was rent asunder and allegations against her got established by her own responsible officer and authority, who was assigned a task in this regard.

Pakistan supplied arms and ammunition to ex-service men, Sudhans and other Muslims in Poonch area of Jammu region to generate anti Hindu Maharaja feelings and thus to communalise the situation. Communal riots was a tried weapon of Muslim League, which used it whenever and wherever Pakistan Government and the Muslim League wanted to use it, besides proving correctness of and also implementing their "Two Nation" theory. This was followed by Pakistan in the Gilgit Agency of frontier and other border areas of the State......

"drivers and lorries were not lacking in transporting thousands of invaders from the North-West Frontier- Province of Pakistan. They

[52] Alastair Lamb, Kashmir – A Disputed Legacy, P. 126;
[53] Ibid. P. 126;

(Pakistanis) were obviously too busy preparing for the invasion of Kashmir to spare time to carry food supplies."[54]

Kashmir Government again launched protest with the Pakistan Government for the volatile situation and financial crunch created in the State by pursuing their calculated inimical and hostile policy towards Kashmir. An urgent telegram by the Prime Minister of Jammu & Kashmir in the last resort, was sent in the third week of October 1947 to the Governor General of Pakistan, Mohamed Ali Jinnah, which, inter alia, reads:

> *"Ever since August 15, inspite of an understanding to observe Standstill Agreement on matters on which agreements existed on August 14, with British India, difficulties have been felt, not only with regard to supplies from West Punjab of Petrol, oils, food, salt, sugar, and clothes, but in the working of the postal system, savings Bank Accounts, were refused to be operated, postal certificates were not cashed, cheques on West Punjab Banks were not honoured. Owing to the failure of remittances from the Lahore Currency office even the Imperial Bank was hard put to meet its obligations."*[55]

Even the vehicles from Kashmir were also not allowed to make any movement from Rawalpindi (Pakistan). Communal holocaust was instigated in Poonch and other areas while the State Government arranged a safe passage to Pakistan for Muslim refuges from adjoining East Punjab. In the above telegram of Kashmir Government to Pakistan, further protest was made in the following words:

> *"Motor vehicles registered in the State were held up at Rawalpindi, Railway traffic from Sialkot to Jammu was discontinued. The State Government has afforded safe passage to 1,00,000 Muslim refugees from Pathankot to Sialkot. On your side 180 out of 220 Kashmiri nationals, who were stranded at Rawalpindi and were being convoyed to Kohala at our request, were killed. People armed with modern long – range firearms have infiltrated in thousands into Poonch and committed horrors on non- Muslims."*[56]

Not only Pakistan supported Muslim fanatics in some parts of the State embarked upon massacre of Hindus, the armed infiltration of Pakistan nationals in large numbers, also helped create communal holocaust and disturbances. It was coupled with the false and malicious propaganda launched by Radio Pakistan against Kashmir Ruler and the Hindu's besides threats given by the smaller feudatory States and private persons. The protest telegram further reads:

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[54] Kashmir Through The Ages, Vol. II, P. 267.
[55] Ibid. Vol. I, P.172.
[56] Ibid. PP. 172- 73.

"Pakistan Radio appears to have been licensed to pour out volumes of malicious, libellous false propaganda, smaller feudatory States are prompted to threaten and even intervene with armed interference in Kashmir State...this State of Kashmir is being balanced for acts which actually are being committed by Pakistan people. Villages are being raided from Sialkot."[57]

In this historical telegram of Jammu & Kashmir Government, unmasking the covert acts and inimical intentions of Pakistan Government, the State Government requested them to put an end to all that undertaken by them against the State. Before concluding, the telegram, adds:

"The Kashmir Government can not but conclude that all this is being done with knowledge and connivance of the local authorities. The Kashmir Government considers these acts extremely unfriendly, if not actually inimically. Finally, the Government wishes to make it plain that it is not possible to tolerate this attitude any longer without grave consequences to the life and property of the people which it is sacredly bound to defend at all costs. Please put a stop to all the inequities which are being perpetrated."[58]

Kashmir Government conveyed to Governor General sounding a note of caution at the end, for the Premier of Pakistan that in the event of not acceding to their request, the State Government would *"be justified in asking for friendly assistance and oppose trespass"*.[59] on Kashmir's *"fundamental rights"*.[60] Jinnah felt offended on this strong and assertive telegram about Kashmir's rights and treated its language as "impolite" and threatened the State *"with dire consequences"*.[61]

This telegram of the Jammu & Kashmir Government was perfectly alright and justified. Reflecting as it did, the ground realities in Kashmir, for which Pakistan was to be blamed and she took initiative for causing bloodshed in Kashmir. Till then, Kashmir had not Acceded to either of the Dominion. Those who hold the view that Maharaja Hari Singh wanted to remain Independent, say that Pakistan compelled him to Accede to India. They assert that Pakistan should not have violated the Standstill Agreement and launched a large scale armed infiltration into Kashmir to capture it forcibly indulging in blood bath. It was briefly suggestive of adherence to certain implicit restraints and

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[57] Kashmir Through The Ages. Vol. I P. 173.This is Kashmir With Special reference to UNO.

[58] Ibid. Vol. I, P 173.

[59] Ibid.

[60] Ibid.

[61] Ibid.

responsibilities and expected normal civil behaviour, from Pakistan, to follow and observe. Kashmir Government, therefore, cautioned Pakistan, about her excesses, violation of International law, breach of Standstill Agreement and above all, contravening flagrantly the basic, fundamental and human rights of the State people. Prime Minister of Pakistan, Liaqat Ali Khan also took an affront of the telegram and telegraphically replied the State Government. It said:

> *"We are astonished to hear your threat to ask for assistance. Presumably meaning thereby assistance from an outside power. The only object of this intervention by an outside power secured by you would be to complete the process of suppressing the Muslims to enable you to join Indian Dominion as coup d'etat against the declared and well known will of the Mussalmans and others who form 85% of the population of your State."*[62]

This reply was nothing short of blackmailing the lawfully functioning Government of Maharaja Hari Singh in the State of Jammu & Kashmir. It also revealed Pakistan's inner mind and political vandalism. One may wonder that the Muslim League and Pakistan put together, could not tame, sublime and win over to their side and support, one Sheikh Mohamad Abdullah in Kashmir. How then can Pakistan be able to befool the people of the State in particular and mislead the world opinion in general with their alleged sympathy for Kashmir Muslims?

How did they develop this love overnight, for the Muslims of the State? When a section of them supported the same Hindu Maharaja, Sir Hari Singh, during "Quit Kashmir" movement and thereafter, on formation of Pakistan Government? The Hindu/Sikhs, who participated in the Quit Kashmir movement, were not against the person of the Maharaja but against the feudalistic system of governance of the Maharaja.

Muslim League had betrayed its own Muslim colleagues, co- workers and supporters in India, in pre and post partition period. More so, obviously, on and after formation of Pakistan and Pakistan Government, they deserted and left them behind their party colleagues and sympathisers in different provinces of India. Did the Muslim League and Pakistan Government ever think of these non Pakistani Muslims in India who formed a good chunk of partitioned Muslims. If not, how its Pakistan Government bothers for Kashmir Muslims. Let the intellectuals of India, Pakistan and Bangladesh think over the above matters deeply and try to

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[62] White Paper on Jammu & Kashmir, issued by Government of India, New Delhi, 1948 (Part- I, No. 14).

discern what is at the bottom. It may help them and their respective peoples to shake hands with one another in an atmosphere of friendliness and warmth of cordiality!

The Prime Minister of Pakistan, Liaqat Ali Khan did not content what he said in his telegram as quoted above but conveyed threat of his Government to the State Government warning to stop its policy otherwise face the grave consequences. This telegram further said:

"We must earnestly draw your attention to the fact that if this policy is not changed and the preparations and the measures which you are now taking in implementing this policy are not stopped the gravest consequences will follow for which you alone will be held responsible."[63]

Knowing fully well that exercise of options like executing Instrument of Accession with either of the Dominion or declaring Independence of the State, were under the Indian independence Act, 1947. As such Pakistan had no right to give warning to the State of Jammu & Kashmir as it was neither under the suzerainty of Pakistan, nor under any feudatory relationship. By virtue of Standstill Agreement, a temporary relationship of rendering and maintaining administrative services between Jammu & Kashmir and Pakistan was to be maintained which also was not to be, for bad motives of Pakistan. Under this agreement, Pakistan was bound to maintain status quo ante.

Replying to the State Government on 19th October, 1947, the Foreign Minister of Pakistan "emphatically and categorically" denied the "allegations and accusations" against Pakistan. In this reply, the truth was totally concealed by the Pakistan Government. They tried to hoodwink the world, however, facts were suppressed and public opinion as well as all those not knowing about the sordid and deplorable conditions and communal atmosphere created by Pakistan Government. By making false assertions in the reply, it was tried to be shown as if normal conditions prevailed and smooth relations existed between Pakistan and the State of Jammu & Kashmir. This reply was totally different in tone and tenor from the ones, despatched by Mohamad Ali Jinnah and Liaqat Ali Khan. It was a mild contradiction and tactical retreat, only in words, but not in actions. This Pakistan reply said:

"People travel to and fro between Kashmir and Pakistan in the normal course of business but the allegations regarding the free distribution of arms and ammunitions to the Pakistan area adjoining the State borders and the infiltration of armed men into the State territory are incorrect……As regards the alleged action of the West

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[63] White Paper on Jammu & Kashmir, issued by Government of India, New Delhi, 1948 (Part- I, No. 14).

Punjab Government in blocking the passage of petrol, cloth and food and in stoppage of transport, we have already informed you that the West Punjab Government have been asked to provide you with all reasonable assistance in these matters. It is entirely wrong to attribute difficulties in transport...to the unfriendly intentions or to regard it as an act of co-ereion on your Government in taking a decision about the accession of the State."[64]

Jinnah's threatening was followed by an aggravated form of invasion of the State of Jammu and Kashmir by Pakistan. It was nothing short of a undeclared war on the people of the State, from October 22, 1947. It took the State and the people unawares, not expecting Pakistan to come down to the level of a deceptive neighbour with malefic intentions, scrapping the Standstill Agreement brazen facedly. Jawahar Lal Nehru, however, had forebode about this trouble which was worrying him all along. Pakistan set a bad precedence from the very inception, of defying and dishonouring the inscriptions of law, requirements of the civility and the normal behaviour of the human society. Pakistan could afford to do it as it formed the basis of Pakistan itself which all along enjoyed the patronage of Anglo American Block. Because of it, Pakistan wielded some undue influence in the said block, which connived at the tragic and dastard blood baths on the one hand and on the other, unending conflict of great magnitude, caused by Pakistan in the annals of mankind.

Despite Standstill Agreement, the economic blockade was cunningly imposed by Pakistan on the State of Jammu & Kashmir, in the month of September 1947. It was politically motivated and amounted to pressurising the State to join Pakistan. The rock salt, favourite of Kashmiris and coming as it did to Kashmir from Pakistani Punjab, was one of the essential items. She maliciously stopped its supply to Kashmir along with other necessities. Kashmiris suffered for want of salt and other essential supplies, stopped by Pakistan. It caused wide spread resentment particularly in the Valley against Pakistan. On depletion of its local stocks, the deprived people appeared like the sick ones, taking the rice with vegetables cooked without salt. It was partly due to psychology for its sudden and unexpected held back supplies and partly due to affecting their taste dishes overnight.

Due to deficiency of salt in the body, mass of people felt uneasy and were agitated against Pakistan. The cheapest and the easily available in bulk rock salt astonishedly became rarest and the costliest usable in the Valley. It began to be sold and purchased not in kilos, as the general and usual practice previously was, but in grams and that too with great difficulty wherever and whenever, it was available in Kashmir. The State Government

[64] Kashmir Through The Ages, Vol. II. P. 267,

had to commandeer its small stocks, controlling its distribution and regulated its small rather selected supply. It also exhausted within no time as all fresh supplies stood stopped from Pakistan.

Since the, Kashmiris had adjusted with using powder (sea) salt, when the essential supplies started coming in, from India after Kashmir's Accession to India, the people were relieved of this agony. Salt became the rarest and the costliest edible in Kashmir on mass level, but petrol became the rarest and the costliest commodity on the Government level. The petrol tanks and trucks of Kashmir were stranded in Pakistani Punjab, for non-issue of permit for petrol and their movement was restrained in West Pakistan. For want of petrol and movement permit to State as well as to private vehicles, the transport traffic came to a Standstill. It had to affect the vehicular movement of State military also. The Chief Secretary of Jammu & Kashmir, Choudhary Niaz Ahamed hailed from Gujurat (West Punjab). The State Government, had deemed it proper to depute him, therefore, to go to Pakistan and negotiate with the Pakistan authorities for lifting of the economic blockade against the State and for resuming the supplies to the State. But his mission failed miserably as Pakistan was bent upon to play the mischief and revenge the Kashmiris. This all was being used as a weapon by Pakistan Government against Maharaja Hari Singh to secure his Instrument of Accession in favour of Pakistan. A former Chief Justice of so called Pakistan occupied Kashmir " Azad Kashmir", Justice Mohamed Yousuf Saraf (now no more) hints to this mischief of Pakistan:

> *"The Maharaja was particularly worried on the use of this (economic blockade) as a political weapon to cow down him and to force him to execute Instrument of Accession with Pakistan which he was not prepared to about the stoppage of petrol. It was decided to utilise the services of the Chief Secretary who apart from being a Muslim, hailed from Gujurat, in the Punjab. Choudhry Niaz Ahamed was, therefore, sent to persuade the authorities, in Rawalpindi to resume the supply of these articles. On reaching Rawalpindi, he found that the District Magistrate Sheikh Anwar-ul-Haq, had, by order stopped the movement of essential supplies from the District...He met the Commissioner, Khawaja Abdur Rahim and learnt that the resumption of supplies was a rather impossible job."*[65]

In view of the facts mentioned, it is clear beyond doubt, that Pakistan Government tried to win a calculated political bout to get the hold of Kashmir with dexterity than fairly and lawfully. Some authors have, biased or not, played down the crime of Pakistan and said

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[65] Mohamad Yousuf, Saraf, Kashmiris Fight For Freedom, Vol. II P. 771,

that the Governor General of Pakistan, Mohamed Ali Jinnah had no hand in or knowledge about this economic blockade or of the aggression started through infiltration in the State. It is not correct. Mehar Chand Mahajan, Prime Minister of Jammu & Kashmir, during the crucial days, also provided a strong and authentic, information in this regard. He says:

"When I took over, the very first person who insisted to see me was Mr. Jinnah's political Secretary who had arrived in Srinagar a week before my arrival and was making efforts to influence His Highness's decision. I gave him the interview asked for and he was with me for about two hours. The whole theme of his talk was that I should advise His Highness to accede to Pakistan. I told him that I could give no advice as I was not yet even an one day old Prime Minister and he should give me time to reach my own conclusion on the subject and mean time the economic blockade should be lifted. He consulted Mr. Jinnah on the telephone but got no response from him on the point. He left with a veiled threat that the consequence of my indecision will be grave. He asked me to meet Mr. Jinnah at Lahore but this suggestion was not acceptable to me."[66]

Mahajan has given the reason for the economic blockade imposed by Pakistan on Kashmir and has qualified it further by adding the following lines:

"The object of the economic blockade of the State was to put pressure on His Highness to sign the Instrument of Accession in favour of Pakistan. Food, clothing, petrol, ammunition, and all kinds of consumer goods loaded on State Transport Vehicles were held up by Pakistan at Kohala and Sialkot, the only two places of approach to the State. .....Persuasion and pressure of economic blockade produced no favourable impression on the Maharaja's mind to sign an Instrument of Accession in favour of Pakistan."[67]

The matter did not rest here. The telegraphic exchange of allegations and counter allegations between the Government of Jammu & Kashmir and the Pakistan Government, surcharged the atmosphere with further tension. Jammu & Kashmir Prime Minister, Mehar Chand Mahajan sent another telegram to Governor General of Pakistan, Mohamad Ali Jinnah on October 18, 1947 and threatened him again to ask for friendly assistance (of neighbour) *"unless the Pakistanis acceded to their request to stop the alleged armed infiltration into*

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[66] Mehar Chand Mahajan, Bhawn's Journal, December 5, 1965, Mr. Mahajan finally retired as Chief Justice of India. He was also member of India Pakistan Boundary Commission, 1947.

[67] Ibid.

Poonch, the blockade of the border as well as continuing propaganda against the Maharaja."[68]

Displeased Jinnah, responded to Mahajan's telegram by objecting to his tone and language but addressed the telegraphic reply to Maharaja Hari Singh and not to Mahajan. Pointing out to some complaints against the Maharaja's Government, Jinnah expressed that Sheikh Mohamed Abdullah and his National Conference were given favourable treatment after release of Sheikh in the end of September. As against this, Jinnah complained for the first time and openly that indifferent treatment was accorded to Muslim Conference and its leaders, including Ghulam Abbas who was suffering detention. Jinnah's reply was based on mixed reaction of grouse and suggestive humility. He, in the last attempt tried again to persuade Maharaja Hari Singh to come to terms with Pakistan. Jinnah's reply inter- alia, says:

"The real aim of your Government's policy is to seek an opportunity to join the Indian Dominion through a "coup de'tar" by securing the intervention and assistance of that Dominion...I suggest that the way to smooth out the difficulties and adjust matters in a friendly way is for your Prime Minister to come to Karachi and discuss the developments that have taken place, instead of carrying on acrimonious and bitter telegrams and correspondence."[69]

It appeared all hoax. Pakistan Government meanwhile, pursued its sinister designs against Kashmir more vigorously. Large scale armed infiltration into the State of Jammu & Kashmir continued. Clouds of uncertainty, unrest, tension and increasing vandalism and threat to the life, honour and property of the people were looming large in the State. Prime Minister, Mahajan had already requested Sardar Patel, Dy. Prime Minister (who was also Home Minister) of India to send arms and ammunition to fight out growing menace of armed infiltration and other destabilising forces in order to save the State. As against this, Patel in his reply dated 21st October 1947 to Mahajan again emphasised the same need to settle with and seek support of Sheikh Abdullah. Patel wrote:

"It is obvious that in your dealings with the external dangers and internal commotion with which you are faced, mere brute force is not enough... It is my sincere and earnest advice to you to make a substantial gesture to win Sheikh Abdullah's support."[70]

Mahajan studied the reply of Patel but found emergent situation had arisen and he could not have time to start a dialogue with Sheikh Abdullah and settle with him by accepting his terms, which were fully endorsed

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[68] Mehar Chand Mahajan, Bhawn's Journal, December 5, 1965.
[69]Quaid-i-Azam, Mohamed Ali Jinnah, Speeches and Statements, 1947- 48, Government of Pakistan, 1989, P. 91-2.
[70] Patel Correspondence, Vol. I, Doc. 65. P. 62

by the Government of India. Mahajan, therefore, replied back to Patel on 23, October 1947: *"....the situation in the State at the present moment is such that one cannot get a single moment to think of politics."*[71] He, however, again requested Patel to assist with arms and ammunition at once so that the fast deteriorating situation in the State could be redeemed. He was convinced that *"no raids could take place if the Pakistani authorities wished to stop them."*[72]

Standstill Agreement over the State of Jammu & Kashmir did not lend any leverage to Pakistan except that she had to provide and maintain administrative services and facilities to the State as before partition. The right to execute Standstill Agreement with both countries was lying with Ruler of the Princely State. Had it conferred any right or claim upon the Dominions by sheer execution of Standstill Agreement, then no such agreement could have been provided for and executed simultaneously with both the Dominions. Furthermore, the option of Accession under the law, would not have remained open after Standstill Agreement. That is why even after Standstill agreement and raid Jinnah and Pakistan Government tried upto last to get Instrument of Accession signed by Maharaja Hari Singh by hook or crook. How and what, rights and claims then could be identified and set apart for each of the Dominion? This ambiguity would have raised more serious conflicts than solved any in relation to the smooth functioning of the State and for maintaining of cordial relations with the Dominions. The provision for Standstill Agreement was a transitory and temporary one meant to be a conciliatory provision for the interim period and not conflicting one.

It was, therefore, wrong to speculate or conceive that execution of Standstill Agreement did confer a right on the Dominion to claim and demand tomorrow execution of the Instrument of Accession from the State concerned. How could that be! Under the Provisions of law, a State was entitled and authorised to execute the Standstill Agreement simultaneously with both the Dominions. Does that mean then that the State asking for Standstill had to execute the Instrument of Accession with both the Dominions? Its is not practicable, nor is consistent with the provisions of law and is so, absurd and unlawful.

Raising a plea by Pakistan propagandists in this regard had never merited any consideration:

> *"Pakistan propagandists contrive to create an impression that the signing of the Standstill Agreement meant that the State of Jammu & Kashmir must necessarily accede to Pakistan. There is no basis for this assertion either in law or in fact. The Standstill Agreement was merely devised to ensure continuity of administrative agreements, as for example, communications, posts, telegraphs and telephones, central*

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[71] Ibid Doc.66. ·P. 63
[72] Ibid.

excise, salt etc. As the very words imply the Standstill Agreement was meant to maintain the status quo and did not create rights and obligations which would arise from an act of Accession."[73]

From the preceding pages, the following facts are established:

a) Execution of Standstill Agreement did not at law create any right, claim, power or authority to Pakistan over Jammu and Kashmir. Accordingly Pakistan tried hard upto last to get the Instrument of Accession executed by Maharaja Hari Singh.

b) Pakistan defied and violated the Standstill Agreement wilfully;

c) Pakistan mounted an armed attack on Kashmir through armed raiders to compel the Maharaja to accede to Pakistan under co-ercion;

d) In the event of the Maharaja having executed the Instrument of Accession (out of compulsion) in favour of Pakistan, it was out of question for India to occupy, capture or annex unlike Pakistan, any part of the State.

e) Due to offensive and armed action launched by Pakistan against Kashmir, bypassing negotiations, the scope for any negotiable settlement of Kashmir State was closed;

f) Pakistan committed breach of International law and crime of war, so is guilty before the World community;

g) Sheikh Abdullah was sitting on the fence, trying for political bargaining with and blackmailing either side or any side, to his best advantage. State people suffered due to Indian Government's tardiness to act positively and promptly and confined only to seeking first Sheikh Abdullah's release and power for him.

h) Indian Government preferred from the very beginning, to weaken and cut the roots of master of the situation and Accession Trump Card holder- Maharaja Hari Singh.

Under wrong notion apparently, Pakistan challenged practically the Standstill Agreement on the one hand and on the other, on its basis tried to grab the State of Jammu & Kashmir forcibly. It was done against all norms of International law and behaviour. Application of force to achieve a thing without mandate of law, foments and invites trouble and not success and shuts the doors of negotiations:

"Diplomatic initiatives were brought to an immediate halt when news was received that a large number of raiders from the tribal territory of Pakistan's North- West Frontier Province had crossed the borders and were heading for Kashmir ...According to Faiz Ahamed Faiz, chief Editor of the Pakistan Times....when news of the tribal invasion reached Lahore, 'we could see that everything was lost'. The 'Jihad' of the

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[73] Kashmir A Factual Survey- Govt. Publication, Kashmir. Vol. II. P. 278,

tribesmen came in the wake of two months of nominal standstill, when, behind the scenes amidst a deteriorating law and order situation, India and Pakistan were both independently planning for the State of Jammu & Kashmir to Accede to their respective Dominions. 'There ended the opportunity of Kashmir's accession to Pakistan, said Faiz. 'The rest is history.'"[74]

[74] M. D Taseer, Sheikh Abdullah, P. 145, Victoria Schofield, Kashmir in the Crossfire, P. 139. Faiz as quoted in Ibid. P.145.

CHAPTER IV

THEORY OF PARAMOUNTCY AND KASHMIR

Policy and the formula evolved and implemented in regard to partition of British India and creation of Pakistan, was not applicable, as clarified already, to the people and the territories of "Princely Indian States". The division formula was based on "Two Nation" theory, treating Hindus and Muslims two separate Nations as pleaded and pressed by All India Muslim League. The other territories of India like the "Princes India", having their "Indian States" and "Subjects", were excluded from the purview of this partition scheme and the law that allowed it. The Princes of these "Indian States" totaling 562 were, dealt with differently though under the same law of Indian Independence Act, 1947.

The Indian Independence Act, 1947 brought into being another country out of the territories of British India in 1947. This is the new Islamic country called Pakistan. She has been brought into being on the demand of All India Muslim League, which claimed to be the representative Body of Muslims of British India, and accepted so by the British Government, a minority still living in India despite creation of Pakistan.

After lapse of British Paramountcy, the Indian "Princely States" were not to merge in India automatically, because of falling within its territory or those outside its territory, to go into the lap of Pakistan. The Princes continued, as usual, the masters of their States, big or small with inherent limitations. Under the Indian Independence Act read with relevant provisions of 1935 Act of Government of India, three options were given to the Indian Princes. The options were:

To accede to India; or
To accede to Pakistan; or
To declare Independence.[75]

Any one of the above three options were exercisable by the Ruler of a Princely State. Besides, the ruler was under law empowered to execute Agreements like Standstill Agreement with the Dominions for a transitory and temporary period. It envisages taking of a positive step and act in a manner provided for under the

[75] The Indian Independence Act, July, 1947. Freeing India & creating Pakistan.

Law. "To declare Independence" of a "State" is, therefore, the Ruler's decision under law and to be recognised, as such, only after "Declaration of Independence" is made, not otherwise. In other words, Independence of a Princely State in India, envisaged " Pre Declaration" about it as such, by a Ruler. In the case of Indian States, including Jammu and Kashmir, there was no "Declaration" of Independence made by any Indian ruler. As such, no Indian State was or became Independent with the vacation of British Rule and lapse of British Paramountcy.

The State of Jammu and Kashmir, therefore, was and remained semi Autonomous unit within India on the day of Indian Independence, i.e. 15th August, 1947. It did not become automatically a "Sovereign Independent" State or Country. Its sovereignty lay with India as the Indian Government stepped in the shoes of British Government. India was, therefore, responsible to protect it from invasion and safeguard its territory and interests within India. This was the position of Jammu and Kashmir State on 15th August, 1947 and onwards.

It is, therefore, fallacious to say that with the Independence of India, Indian Princely States also became Independent is so facto. If it were so, then to provide them options under law, was not required or necessitated. An independent country can take any decision, even to merge with another country. Under Indian Independence Act, however, the Princes were treated as Indian Princes and their "States" as "Indian States" and were not regarded as strangers. In case, they wanted to remain Independent, they had to make a Declaration.

The Indian Theory of Paramountcy has its own background and historical development. Soon after nineteenth century commenced, the British Government started embedding its roots firmly in the soil of India. It was not only consolidation of British India, as it came to be known, but their sphere of influence and control also extended to the Indian Princely States, as they were called during the British Rule. The British emerged as supreme and became "unquestioned rulers of India."

British Paramountcy over the Sub- continent came to be recognised and acknowledged. About the British policy in India, based on theory of Paramountcy, it was said:

> *"Hence forward quarter of the century (1818 AD) it became the universal principle of Public policy that every State in India (outside the Punjab and Scinde)"-these had not then been annexed –"should make over the control of its foreign relations to the*

British Government, should submit all external disputes to British arbitration, and should defer to British advice regarding internal management so far as might be necessary to cure disorders or scandalous misrule. A British resident was appointed to the Courts of all the greater Princes as the agency for the exercise of these high functions; while the subsidiary forces and the contingents furnished by the States placed the supreme military command everywhere under British direction."[76]

The Indian States were reduced to semi Autocracies under the yoke of British Rulers with varying degrees of Autonomy. The British Rulers gained the position and power deposing a Prince even for disloyalty towards the British. The position of Indian Princes have briefly been thus portrayed:

" Their (Princes) relations with external powers are in the hands of the British, who as paramount power control the succession to the rulership of the States, manage them for the Princes during minorities, and have powers of intervention and, in extreme cases, of deposition of the ruler in the event of gross misrule, disloyalty, or crime. The British while protecting the rulers of the States have never divested themselves of their responsibility for certain standards of administration in the interest of the ruler and the people of the States and of India as a whole.[77]

Would the British Paramountcy survive over the Indian Princely States after partition of India? It was no less an important and interesting topic before Independence was conferred on British India. These States were excluded from the purview of Partition Scheme. According to the British Government, this Paramountcy was to lapse. The Cabinet Mission Memorandum made it clear, which said:

"His Majesty's Government will cease to exercise the power of Paramountcy. This means that the right of the States which flows from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the Paramount Power will return to the State. Political arrangements between the State on the one side and the British Crown on the other will be brought to an end"[78]

Some of the bigger States were skeptical about ending of Paramountcy by the British Government. The Cabinet Mission

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[76] Sir Alfired Lyall, British Dominion in India, Chapter XVI

[77] Harcour Butler, India Insistent, PP. 50-51. Butler was British Governor of U.P. also for quite some period in nineteen twenties. This book was published in 1931 in Great Britain.

[78] Cabinet Mission Memorandum dated May 12th, 1947

Memorandum, therefore, evoked all the more surmises and speculations. Others were still doubtful whether the British would make exit from India fully and wind up here with bag and baggage. The British Cabinet had also, therefore, to make an announcement subsequently, endorsing the memorandum of Cabinet Mission. This announcement said:

"His Majesty's Government wish to make it clear …… that their policy towards Indian States contained in the Cabinet Mission's Memorandum of 12th May 1947 remains unchanged."[79]

The Indian Independence Act was, however, finally passed on July 18th, 1947 and made this position about the Indian Princely States clear:

About lapse of British Paramountcy, a provision is incorporated in the Indian Independence Act. The section 7(1) clause (b) of this Act, relevant to the lapse of Paramountcy in relation to the Princely States of India, reads as under:

"(b) the suzerainty of his Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between his majesty and the rulers of Indian States all obligations of his Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by his Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise."[80]

This provision of law brings out two factors, which had governed the relationship between the British Government in India and the Indian Princely States: First, the general suzerainty (with other incidental things) of the British Government in India, exercising paramountcy over the Princes of India, and Second, relationship depending upon and governed by Documents like, treaty, agreement, grant, engagements and other like things. The indentures in the form of treaties, agreements and grants are a separate thing. In other words, the Paramountcy constitutes of two types:- One is Documentary relationship, created through Documentation and the other is inherit, based on Non-Documentation. The British Parliament passed the Indian Independence Act on July 18, 1947 extinguishing the British Paramountcy. It in fact, pertains to and affects the Paramountcy based on Documentation and not

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[79] British Cabinet Announcement dated June 3, 1947.
[80] Indian Independence Act, 1947, which created two separate Dominions of India and Pakistan on 15th August 1947.

the other type, nor that could be affected. The other type, therefore, did not fall within the ambit of British Parliament.

The rights and obligations created under these documents extinguish on expiry of stipulated time or on rescinding the documents or as per the terms of the Indenture and validity thereof. But the rest determines the nature, position and authority of the Government, here of India culminating it in Paramountcy. This legal provision in the Independence Act itself makes a distinction indicating that the Paramountcy does not depend on bilateral agreement alone nor it is extinguishable on change of the Government even though the withdrawing Government may declare its termination.

It simply changes hands from outgone Government to the succeeding Government, which in the subcontinent was, for all practical purposes, the Government of India and not Pakistan Government. The Paramountcy vested in the succeeding Indian Government as such, survived and did not lapse by vacation of British Government from India.

"Because of this, the Congress leadership in India was unhappy with the British Government for declaring lapse of Paramountcy which, in fact they could not do nor could effectuate it. Muslim League was not concerned with all such issues, as it was interested only in her pound of flesh. "this upset the Indian National Congress though Muslim league leader, Jinnah had to say nothing in this regard."[81]

Keeping the historical background of Indian Independence and also the relevant provisions of the law in view, the legal conclusion that one may arrive at is that the Indian States were not fully independent after partition of India as indicated in the earlier pages. The shadow of Paramountcy of Indian Government was hanging over the States. The President of Muslim League, Mohamed Ali Jinnah held somewhat a different legal view, perhaps wishing to get some thing more. He said on June 17, 1947:

"Constitutionally and legally the Indian States will be independent sovereign States on the termination of Paramountcy and they will be free to decide for themselves and to adopt any course they like; it is open to them to join Hindustan Constituent Assembly or decide to remain independent. In case they opt for independence they would enter into such agreements or relationship, with Hindustan or with Pakistan as they may choose,"[82]

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[81] Ram Krishen Kaul Bhatt, Political and Constitutional Development of Jammu & Kashmir. P. 147

[82] Ibid. P. 143.

Jinnah's assertion of legal opinion is not consistent with the legal realities. I strongly differ with his view. For independent sovereign State, it was not necessary at all to enter into an agreement with both the Dominions or even with one Dominion. To urge this, negates their independence. The Indian States enjoyed semblance of Independence even after lapse of British Paramountcy and not full independence, much less sovereign independence. Moreover, bilateral treaty, agreement etc. could be terminated by the British Indian Government but not the Government Paramountcy, developed and rooted in the soil of India as a matter of course. Jinnah was not, therefore, correct in giving such a liberal and wide legal and constitutional construction to the "Independence of Indian States" and to regard them as "Independent Sovereign States". He attempted indirectly to challenge the paramountcy of Government of India which survived in the lego historical background of its development in India.

The rulers of the Indian States were free to exercise any of the three options made available to them under the law. But there was a rider in the scheme of the Act itself by way of commitments made and conditions imposed before the grant of independence. While the Princes could neither afford to offend the Government of India, possessing the Paramountcy, nor go against her vital interests, unless the territory had ceded and they acted in consonance with law. Before the statement of Jinnah, the Crown representative in India, Viceroy Lord Loius Mountbatten, had clarified the position of Indian States. In his exhortative statement of 4th June 1947, which conveys much more than the brevity of the statement says. He said:

> *"That after the transfer of power, though the States were free to enter either Constituent Assembly or make such other arrangements as they deemed necessary, yet they could not enter the Commonwealth separately as Dominion."*[83]

Through this significant statement, the Indian States were distinctly conveyed and made cautious about the limitations and fetters on their independence in case they chose to opt for Independence. Firstly, they had no right to be Independent Sovereign States within India or being contiguous to India; Secondly, they would not have enough separate identity and entity to sit or be heard in the forum or fora of communities outside India. Conversely, it meant in the light of

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[83] Ram Krishen Kaul Bhatt, Political and Constitutional Development of Jammu & Kashmir. P. 144.

surviving Paramountcy of Government of India, that no Indian Independent State would claim equality and status at par with that of India and that British Commonwealth would not recognise them as such.

The British Government thereby, gave a cold shoulder to the Indian States, discouraged their tendency for Independence if any, and gave both moral and legal support to India, preventing by and large, any scope, even nominal, for disintegration. Implicitly, it also indicated and acknowledged paramountcy of the Government of India in the region. Inflicting a deep and great injury to India unforgettable indeed, by carving out and creating Pakistan notwithstanding, this act of the Britain is worth appreciation. In this context, they tried to discourage any isolation or seperation of any Princely State. It helped to cut at the roots of any tendency of balkanisation of India after formation of Pakistan.

This perceptible gesture of goodness and commitment made by the British Government, before transfer of Power was further endorsed and confirmed on the highest echelons of the British Government. *"The Under Secretary of State for India, emphatically maintained in a speech that the British Government would not recognise any State as a separate International entity."*[84]

Prime Minister, Clement Attlee while speaking in the House of Commons on the Indian Independence Bill, referred to the Indian States and hoped, *"that no irrevocable decision to stay out permanently will be taken"*.[85] These were points of understanding and conditions on which India was set at liberty by the then Paramount power.

The ostensible policy of Muslim League towards the Indian States was one of non- interference and non-offensive. As back as in 1940, while speaking on the Lahore Resolution, Jinnah, however, wanted another division of India by way of grouping some of the important States in North Western India, including Jammu & Kashmir. It shows that in his scheme of Pakistan, no Indian State, not even Jammu and Kashmir, was included. He, therefore, desired their joining as a Federal unit to the Federation of Muslim Homeland but not merging to form Pakistan. Jinnah explained:

"The only important States which matter are not in the Eastern but in the North- Western one- They are Kashmir, Bhawalpur, Patiala etc. If these States willingly agree to come into the Federation of the Muslim Homeland, we shall be glad to come to a reasonable and honourable settlement with them."[86]

[84] Parliamentary Debates, House of Commons, Vol. 439, 1946- 47, 23 June 1947.
[85] The Hindu, 16 July 1947.
[86] Ram Krishan Kaul Bhatt, Political and Constitutional Development of Jammu and Kashmir PP. 145-146.

Neither Congress Party leadership allowed to materialise Jinnah's such fantastic dreams, nor the British Government was inclined to make Paramountcy of India divisible to this extent, in addition to the creation of Pakistan. This apart, Bhawalpur- a Muslim State on the border of India and ruled by a Nawab, was reluctant to join Pakistan after partition in 1947. It had resisted Accession to Pakistan and wanted to declare Independence, But she was ultimately compelled to and annexed by Pakistan in September 1947. Bhawalpur had territorial contiguity with both India and Pakistan. India never tried to foment trouble in Bhawalpur against Pakistan as Pakistan has been doing in Jammu & Kashmir.

After partition of India on August 15, 1947 interference whatsoever, by Pakistan in the affairs of Jammu & Kashmir, has been totally unwarranted and unauthorised. Instigation, abetment or encouragement by her of any uprising or outburst of any section of the people or intrusion anywhere in the State, facilitated or caused by her, lack mandate of law. The implementation of such designs or execution of such plans through the land of Pakistan into the territory of the State or any part thereof constitutes crime. India had, however, a different and superior position over the State of Jammu & Kashmir than Pakistan ever had, even in absence of execution of Standstill Agreement and Instrument of Accession.

After the Indian British Government vacated India, the Government in India was, a substitute and replacement for the outgoing Government. Being a successor, she exercised powers and jurisdiction over whole of India excepting the areas that became the territory of Pakistan. Prime Minister of India, Jawahar Lal Nehru elucidated this point in Parliament. He said:

> *"I would go a step further and say that even if Kashmir had not acceded to India, even then it would be our duty to defend it. I am trying to develop a Constitutional argument in stating the point. It is because of India being a continuing entity. That is, we were India and we are India and a part of it went out, opted out, let us say, and became Pakistan. We allowed it to opt out. Now, whatever did not opt out, remained with India till such time as something was done, some decision was taken. That is, our responsibilities continued in regard to every part of what was India until that part deliberately and positively became, not India."*[87]

With the end of British rule over the country, the Indian Princely States, neither technically nor automatically, became

[87] Prime Minister, Jawahar Lal Nehru's speech delivered in the Lok Sabha on March 20, 1956.

Independent Sovereign States. True, after the lapse of British Paramountcy, the outgoing Government terminated all treaties, engagements and agreements, if any, released the Indian States from all the commitments and obligations thereunder. But the fact remained that the mainland Central Government that stepped in, was as good a Government as previous one, for former British India and the Princely States of India, whatever hue and colour they had.

For vacating British Indian Government, before partition of India and as a prelude to independence, the Interim Government was substituted and installed in British India. It lasted till the day of Independence on 15, August 1947, inherited the legacy of outgoing Central Government. From August 15, 1947, the formal Government of India took over and inherited powers and superiority of British Indian Government over the Indian Princely States. This Paramountcy of the new Government of India could not be restricted to or based on the terminated treaties, agreements and other written commitments. It was apart and independent of that, only by virtue of being a Government of India. With the lapse of total British Paramountcy, the Paramountcy of the new Government of India stepped in and prevailed automatically. It only changed the hands: from British India Government to Indian Government. As the traditions and customs in the people's life matter and develop with the passage of time to become an unwritten law having the force of law, similarly this Paramountcy of Indian Government, rooted in the exigencies of time, have gained recognition of law, envisaging rights, duties and obligations. In the Lord Mayor's time in India, the theory of Paramountcy of Central Government began to take clear shape and positive roots:

> *"In his time were sown the seeds of the policy of Paramountcy in which the claim for intervention in other spheres, besides the maintenance of treaty obligation, was put forward by the Government of India. He toured the States constantly held durbars, and advised the rulers on their rights and duties. The speeches, though full of advice, from their trend showed that the Government of India was vitally concerned in the internal administration of the principalities of the Princes, and any failure in any of the respect to which His Excellency alluded in a homely way would entail intervention even against the covenant of the treaties."*[88]

The Paramountcy of the Central Government in India began to grow by and by. This long arm of the Central Government reached the Princes of India where and when they needed check and

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[88] Harnam Singh, Kashmir and the Indian Polity – Kashmir Through The Ages Vol. I, P. 325.

restraint or help and support. This arm supplied to pat a common man where the State administration required its interference for his benefit or to fetter him with discipline and loyalty. Maharaja Pratap Singh, the Autonomous Ruler of Jammu & Kashmir State, was deposed for some time, by the British Government. It was done on grounds cogent or not, but under this unwritten law of Paramountcy in absence of any covenant or agreement empowering the Central Government to take this extreme punitive action. He was restored on throne after a period under the powers of the same developed unwritten law. In the Viceroyalty of Lord Curzon, scope of Paramountcy was far extended and the Government's administrative control over the Indian States tightened:

> *"During the Viceroyalty of Lord Curzon the policy of considering the Indian rulers subordinate to the administrative control of the Government of India, deriving their rights, power and dignities from the Crown,. reached its zenith: the Curzon Government issued a circular stating that permission of the Viceroy was required before a prince left the Indian shores. The theory (of Paramountcy) was, no doubt, of a slow growth, and was being evolved constantly by the political department, but so far it had not found any high official utterance. Lord Curzon was the first Viceroy to State it in unequivocal terms when on November 12, 1903 at the installation ceremony of the Nawab of Bhawalpore he uttered these words: "The political system in India is neither feudalism nor federalism; it is embodied in no constitution; it does not always rest upon treaty -. The sovereignty of the crown is every where unchallenged. It has itself laid down the limitations of its own prerogative." It was claim not to Paramountcy but to complete sovereignty. It was an assertion that limits of its prerogative could reach to any length, and whatever limit there is, it is self imposed."*[89]

The theory of Paramountcy was entrenching in the soil of India as it suited to the temper and requirement of India. It was not, therefore, solely connected with the British Government but had an indigenous development, being an imperative for the unity and unification of India. The survival of theory of Paramountcy in the Sub–continent of India was not, as such, dependent upon the existence and continuance of British Government in India or survival of their treaties and engagements. It had an indigenous growth for indigenous purpose, as the Usage and Custom has a local complexion, content and purpose. Custom grows and survives, because it fills up a local void and serves a local need. Likewise, the theory of Paramountcy sprouted up in India to fill up an administrative

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[89] Harnam Singh, Kashmir and the Indian Polity – Kashmir Through The Ages Vol. I, P. 329.

gap by the unseen and unwritten law stretching to deal with, check or control which otherwise is neither within its legal domain nor fall within its administrative sphere, but only to serve a national interest.

Under the theory of Paramountcy, the powers are not delegated from vacating Government to the incoming Government. It is automatic devolution of the powers from the outgoing Government to the succeeding Government. It may be called theory of Automatic Devolution of State Power as well. Only a direct and unambiguous positive provision of law enacted or constitution framed and adopted, to the contrary, may under certain and special circumstances, modify, suspend or render ineffective, the operation of this unidentified and undetermined law so devolved upon, but not its delegation to the successor Government. Consequently, the theory of Paramountcy had neither foreign growth, nor foreign purpose but it had upbringing at the foreign hands for Indian purpose and interest.

The result was that the theory of Paramountcy did not die out in India with the departure of British Indian Government. The Paramountcy survives even thereafter. What is cancelled by the British Government in India is, in fact, their legal relationship with India and Indian Princely States and not the growth and development of lawful political traditions and legal thought and precedents, filling up the void and meeting the eventuality. The theory of Paramountcy continues to operate in India.

It became the heritage of Indian polity and not that of Pakistan. It invariably becomes the legacy of the mainland, which is known under the name the erstwhile Government had ruled over. The origin of Pakistan is the basis of separating from and disinheriting the mainland (country) and non-sharing its traditions, system and other good or bad things. Pakistan is, therefore, for all practical purposes, a new separate, strange and different country and entity, not connected directly now with main India. Things vest in the main and old country and not to its separated limb when the existing Government is a replacement to the previous one. Obviously, therefore, for such purposes, a new separate and different country and entity, cannot claim to the support and benefit of India Paramountcy. The instance of Bangladesh may be cited. It is a new and separate country from Pakistan and does not claim to represent and inherit the legacy of Pakistan, not even with respect to Kashmir. Obviously, therefore, for such purposes, Pakistan can not claim any legacy of the erstwhile Government, fostered as it had, unwritten law of Paramountcy, for uniformity of the administration in India and in Indian States, was an essential requirement, after passing through different phases and stages:

"Thus the relations of the States with the British Government passed through different phases, ultimately bringing them by slow stages from their sovereign status to that of complete subordination..... But in India the assertion of central authority was more marked and subtle and was accentuated through the imperialistic policy of unification of India".[90]

The States did not and could not function completely in isolation and independent of watch and check of the Central Government. The latter had a commanding position and administrative superiority over the former. There may have not been the need to show or witness the latter's unidentified and undetermined powers, elevated position, and administrative competence to interfere with a State. The States had no separate and independent currency of their own. It was the currency of the Government of India alone which was in vogue everywhere throughout the territory of Indian Sub-continent.

The leaders of interim Government and after independence, Government of India was conscious that all powers and jurisdiction of the previous British Government were transferable and did transfer to the Succeeding Indian Government. Accordingly, Indian Government was aware of their superior powers and jurisdiction exercisable over the State of Jammu & Kashmir and other States in India. Home Minister Vallab Bhai Patel, therefore, sent a letter dated September 12, 1946 to Prime Minister of Jammu & Kashmir, Ram Chandra Kak, urging him to release Sheikh Mohamad Abdullah and maintain better relations between rulers and the subjects. Patel also pointed out to him that the interim Government had inherited British Government authority in India. Kak in his vague reply to Patel wrote *"the analogy you draw between the British Government and the Interim Government on the one side and this Government on the other is misleading,"* replied Kak.[91]

Kak's response to Patel was not free from bias. The future political shape and status of India was not clear then, at least, so far as the position of the Princely States was concerned. The Crown representative in India – Viceroy also was very much functioning in India then. Kak could not, perhaps, contemplate what Nehru and Patel had visualised in a broader and changing political horizon of India. Patel did not assimilate, as such, what Kak had written to him. The leaders of Government of India were well aware of this hidden power and aspect of India polity which Jinnah and his Muslim League, apparently were not. As such, Dy. Prime Minister Patel short of referring to the theory of

[90] Harnam Singh, Kashmir and the Indian Polity – Kashmir Through The Ages Vol. I, P. 333.
[91] Sardar Patel correspondence Vol. I PP. 13 –15.

Paramountcy, conveyed and cautioned the Kashmir Prime Minister, about the powers of the Central Government to deal with Kashmir or any other State. In a reply communication dated September 28, 1946, Patel informed Kak:

> *"I tried to arrive at a friendly and honourable understanding on the Kashmir question. I had no other interest in coming to Kashmir at present. I felt that I could render a service to H. H. the Maharaja Sahib and you by placing my services at your disposal. But your reply betrayed a cold, official touch me – not attitude........No State can treat itself as outside the purview of India or regard Indians outside its boundary as strangers and foreigners."*[92]

The authority of Central Government was extending over the whole India including the State of Jammu & Kashmir, unless any part of the territory of India, including that of the Princely States, was lawfully ceded to or joined legally with the emerging new country of Pakistan. The conceptual base of the theory of Paramountcy was further clarified by Lord Chelmsford. He observed:

> *"We can not deny, however, that the treaty position has been affected and that a body of usage, in some cases arbitrary but always benevolent, has come into being."*.[93] The *"uniform system of administration"* was, therefore, becoming a vital and indispensable ingredient of the theory of Paramountcy.[94]

Development of this concept with growing trappings of unseen law, was ultimately fruitful for and beneficial to the unity and integrity of India, no doubt, Pakistan excepted. Adoption, advancement and application of this policy of unification and consolidation of India by the Government of India unilaterally, came under the theory of Paramountcy. It had not as its basis the Treaties, Covenants and Agreements executed with the Princes of the States. But sometimes, it was in addition to those bilateral commitments and other times, in defiance and derogation to or independent of those Agreements. It certainly, therefore, modified these treaties automatically or rescinded them of its own. It never hesitated to abridge or even abrogate the same, as and when,

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[92] Sardar Patel correspondence Vol. I PP. 13 –15.

[93] Harnam Singh, Kashmir and the Indian Polity, Kashmir Through The Ages – Vol. I, P. 333

[94] In other words, the authority of British Indian Government was unhesitatingly applicable to the Indian Princely States as well. This principle had universal application through out India, whether it was the question of Jammu & Kashmir or any other State. Pakistan emerged as a new country long after. She can not claim to be equated with India and could not enjoy the same powers and jurisdiction, which Government of India inherited.

the British Indian Government had to meet any requirement of the situation or any eventuality, exigency for "converting the States into an integral part of the imperial polity." Besides, it was duty of the Paramount Power, to handle the "inter–State relations, external affairs, defence protection, internal administration" of the Indian States. "That is the duty of corrective obligation in cases where intervention become necessary- intervention for the benefit of the Prince and the State and even for whole of India."[95]

This unperceptible growing power in the Central Government, consistent with the demands of changing conditions and situations, acquired the legal edge and became operative and workable in India. It developed like unwritten law of "Natural justice" in the modern times. Viceroy Lord Reading in his final reply dated March 27, 1926 to the Nizam of Hyderabad laid at rest the whole controversy about retrocession of the areas known as "Berar" in Central India and clarified the basis of Paramountcy of British Government in India.

Referring to the above letter of Lord Reading "about the supremacy of British Government in India," Harcour Butler writes:

> *"This letter (dated 27th March, 1926) had the approval of His Majesty's Government. It has the imprimatur of Lord Birkenhead, Ex. Lord Chancellor of England, as Secretary of State, and Lord Reading, ex- Lord Chief Justice of England, as Viceroy. The letter is a long one but the main conclusion is as follows:- "The sovereignty of the British Crown is supreme in India, and therefore no ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them and, quite apart from its prerogative in matters relating to foreign powers and policies. It is the right and duty of British Government, while scrupulously respecting all treaties and engagements with the Indian States, to preserve the peace and good order throughout India".*[96]

After the partition of India in 1947, the Government of India was and is, for all intents and purposes, successor to the departed British India Government. The Government of India, therefore, stepped in the shoes of withdrawn Government, possessed and retained all its rights and powers under the principle of Paramountcy.It also became embodiment of duties and obligations, dischargable towards the Indian Princely States. In other words, Paramountcy shifted from the British Indian Government to its successor Government in India. No

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[95] Kashmir and the Indian Polity P. 334.
[96] Horcour Butler, India Insistent, PP 55-56.

matter, agreement existed or not, it inherited the Paramountcy as a largesse. In this context, it was obligatory for India in 1947 and after, to have come to the rescue of Jammu & Kashmir and fought out Pakistan without waiting for execution of Instrument of Accession in her favour by the Maharaja. Kashmir's Accession to India, however, empowered and authorised India fully to integrate it and handle in proper manner as also to deal with the fuss creators and invaders sternly and the way she choses.

"Although Nehru and Patel agreed to what Mountbatten said, they found nothing to prevent New Delhi from sending assistance even in the absence of accession. They argued that India was duly- bound to render assistance to Kashmir because it was the successor to the British India."[97]

The Government of India has alluded to this aspect of the case also, which was, however, accorded total strength and justification by Kashmir's Accession to India, setting every suspicion and controversy at rest. Laying emphasises on India's duties, responsibilities and rights towards Kashmir, even in the "absence of accession", a publication of Government of India rightly highlighted and amplified as under:

"...the Union of India was responsible for the defence and protection of Indian States, since it has succeeded to the British Crown in the same way as the British Crown had succeeded to the Moghal emperor. The United Nations recognised the Union of India as the Successor State to the pre- Independence Government of India by allowing it to continue its original membership, while admitting Pakistan, on her application, as a new member State."[98]

[97] Kuldip Nayar, Kashmir: A Way Out, Kashmir Through The Ages, Vol. 2; P. 138.
[98] Ministry of External Affairs, (Government of India) publication "Kashmir and the United Nations," New Delhi – 1962, P. I,

CHAPTER - V

AGGRESSION BY PAKISTAN

After wilful and calculated violation of Standstill Agreement, Pakistan created an ugly situation of economic blockade, political insecurity, communal tension and disturbances in the State of Jammu & Kashmir. It was meant to coerce the State into surrender and compel it to join Pakistan. An economic and political uncertainty, as such, ensued in the State. Pakistan Government strive hard to expand and extend its tentacles to make interference easy in the internal affairs of the State. Feelings of anti Hindu and anti-Maharaja were whipped up by the large number of armed intruders from Pakistan to generate and escalate communal disorder and disturbances. They penetrated into the State from different adjoining border passes, routes and roads, in numbers high and equipped fully. These indoctrinated Afridis and other tribesmen, mostly from North Western Frontier Province (NWFP) of Pakistan included personnel of Pakistan army in civil clothes.

The marauding tribesmen were allured and induced to capture Kashmir and rid the Muslims of the Hindu Rule, according to the reports, then reached Kashmir. In nutshell, they were given license (a) to fight out and eliminate the infidels (Hindu/Sikhs) thus help liberate the allegedly suffering Muslims in Kashmir (b) collect booty (c) have abduction of women and free sex and (d) capture Kashmir for Pakistan.

The armed infiltrators took to indiscriminate looting, innocent killings and lewd indulgence.

According to these reports, Mohamed Ali Jinnah was keenly awaiting the news of fall of Kashmir and eagerly looked for the moment to crown himself in Srinagar. Many others had committed to celebrate Idd in Srinagar. Thinking that the time to celebrate the occasion was coming near, Jinnah proceeded from Karachi half way advance to Abotabad, nearer to Kashmir to have reports of raiders advancement from close range, then went to Lahore to halt there. The providence ordained otherwise and Jinnah had to return Karachi with heavy heart, as a very disappointed and dejected person. After the news was flashed to him that Maharaja Hari Singh Acceded to India, followed by intimation about the dispatch of Indian troops to Kashmir, Jinnah heaved a long sigh and expressed that Kashmir had gone out of their hands, never to come back, he lamented!

It is a tale of great woe and torture that Pakistan Government perpetrated on the people of the State in general and Hindu/Sikhs in particular both, directly and indirectly. A large number of ex- service men of the Indian army, mostly Sudhans, (converted Brahmins to Islam long back) were sitting idle in their home area of Poonch. They were asking for their recruitment in the State forces. The winds of communal riots in Punjab initiated by Muslim League had reached the border areas of the State also, polluting the communal atmosphere there. The State Government had no vacancies. Some disgruntled workers started to express resentment against the State Government. Pakistan elements, however, inside and outside the State, jumped into it, and wanted to exploit it in favour of Muslim League and Pakistan. These elements, therefore, tried to create discontent in Bagh, Palandhri and Rawalakot areas of Poonch and affected communal amity in various areas there. Sheikh Abdullah was awaiting eagerly for some fruitful outcome of G.M.Sadiq's talks with leaders of Pakistan Government. As such, he termed this pianned and politically motivated, communally boosted and localised discontent as reaction to sending the troops to Poonch. Speaking in New Delhi on 21st October 1947, Sheikh Abdullah said:

"Kashmir State sent its troops and there was panic in Poonch. But most of the adult population of Poonch were ex- service men in the Indian Army with close connections with the people of Jehlum and Rawalpindi (in Pakistan). They evacuated their women and children, crossed the frontier, and returned with arms supplied to them by willing people."[99]

Justice Mohamed Yousuf Saraf, revealed how the pro-Pakistan campaign was organised with the support of Pakistan. He said:

"On 22nd June, Choudhry Hamid Ullah Khan visited Rawlakot and held a secret meeting in the house of Moulvi Iqbal Khan with some of the Party workers and ex- service men at Village Pothi Makwalan, presided over by Sardar Mohamad Sharief Khan, now a judge of the High Court. It was also attended by Sardar Abdul Qayum Khan. They took stock of the situation and decided to organise, of course secretly, the District ex-service men for an eventual confrontation with the Dogras. Choudhry Hamid Ullah

[99] Mohamed Yousuf Saraf, Kashmiris Fight for Freedom Vol. II P. 801. He was Socialist student leader of Kashmir, migrated to Pakistan and retired as Chief Justice of Pakistan occupied Azad Kashmir. He has passed away many years back. After his retirement, justice Saraf was assigned the task of writing the book by Pakistan Government which he completed in two volumes after some years of assignment.

accompained by Syed Nazir Hussain Shah, district Party Chief also toured some parts of the district and held consultations with Party workers. The blacksmiths were particularly hunted out for operation because their small workshops were turning out a large number of spears, hatchets and knives. In course of a search one Maqbool Hussain... wounded a Dogra soldier."[100]

Presence of large number of Muslim ex- service men in the Poonch area during the days of communal tension and disorder, could have really been a matter of grave concern for the Maharaja's Government.

"of the 71, 667 citizens of the State of Jammu & Kashmir who served in the British Indian forces during World War II, 60,402 were Muslims from the traditional ground of Poonch and Mirpur".[101]

The search for blacksmiths for manufacturing ordinary type of lethal weapons to fight against Dogra Army and kill non-Muslims with the initiative or active support and participation of trained Sudhans, was a grave and intense situation which required attention of the Maharaja urgently who had to act promptly. The Ruler having become victim of communal frenzy and policy, was to take all necessary and precautionary measures:

"It was obvious that the Government was most worried about the district of Poonch on account of the pressure of a large number of ex-servicemen. On 11th August, a public meeting was held in Rawlakot town in defiance of section 144".[102]

In an interview in 1994, Abdul Qayum Khan disclosed that

"I thought that perhaps India would like to obtain Kashmir and that is why the armed revolt took place. Against the declared Standstill Agreement, the Maharaja had started moving his troops along the river Jehlum. It was an unusual movement, which had never happened before, and I could see that it had a purpose of ceiling off the border with Pakistan. In order to thwart that plan, we rose up in arms."[103]

Pakistan had openly violated Standstill Agreement with the purpose of seeking the Accession of Jammu & Kashmir State. In order to overcome the economic blockade and other hardships created by Pakistan, the State Government had started

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[100] Mohamad Yousuf Saraf, Kashmiris Fight For Freedom. P 788.
[101] Victoria Schofield. Kashmir in The Crossfire, P. 135
[102] Mohamad Yousuf Saraf, Kashmiris Fight For Freedom, P 789
[103] Victoria Schofield, Kashmir in the crossfire. P. 134

metalling the road from Jammu to Kathua at a high speed for various reasons:

"The metalling of the road from Jammu and Kathua is also proceeding at top speed. The idea is to keep up some sort of communication between the State and the Indian Union so that essential supplies and troops could be rushed to Kashmir without having them to transport through Pakistani territory".[104]

Without formally executing Standstill Agreement by Kashmir State with India (which, however, was necessary in case of the State fully aligning or merging with India) the relationship between Kashmir and India was found in the undeclared relationship of India with Kashmir under her Paramountcy. To facilitate this relationship became possible only with the allotment of road communication to Kashmir with India on 17th of August 1947, under Radcliffe Award. Temporary relationship created by the State with Pakistan to the extent and by way of expected and usual administrative facilities, receivable under Standstill Agreement, was brought to an end by Pakistan herself by flouting the Standstill Agreement. Pakistan ceasing thereafter any link whatsoever, with the State of Jammu & Kashmir and became totally a strange and foreign country for the State, which India was not for it. Further steps also were taken in this regard:

"Clear steps were being taken to improve communications with India, by telegraph, telephone, wireless and roads...A boat bridge was also being constructed over the Ravi River near Pathankot, which would improve the access from Gurdaspur. In Pakistan it was widely believed that India was preparing to announce Kashmir's accession to India in the autumn."[105]

The Pakistani Government seeing its failure in coercing Maharaja Hari Singh to Accede to Pakistan and feeling India was gaining ground in Kashmir, alleged without any logic that India had violated the Standstill Agreement executed by Kashmir with Pakistan. Citing an instance, she said that India had included Kashmir within the Indian Postal system, *"as evidence, they produced a memorandum, dated 1 September, 1947, signed by the Director General of Postal Telegraph (Posts and Telegraph) New- Delhi, in which towns in the State of Jammu & Kashmir were listed as part of India."*[106]

In regard to above allegation, Pakistan has failed to appreciate, on the parity of law and logic, that prior to partition, Posts

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[104] The Pakistan Times, 27th September, 1947.
[105] Victoria Schofield, Kashmir in the Crossfire. P. 135.
[106] Joseph Korbel, Danger in Kashmir, P. 66

and Telegraphs in Kashmir, were under control of its Director General New-Delhi. The Maharaja had requested to both, India and Pakistan for execution of Standstill Agreement. Standstill was not, therefore, exclusive affair between Kashmir and Pakistan as the Accession of Kashmir to India is: Pakistan violated this Agreement by fostering alround crisis in Kashmir. India showed her sense of obligation towards the State people under the Doctrine of Paramountcy even without this Agreement. Pakistan damaged the State and the people of Jammu and Kashmir under the cover of Standstill Agreement; India did not harm them by the Memorandum under reference.

Muslim Conference leader from Poonch, Choudhry Abdul Hamid wanted to get the Maharaja's designs forestalled by Pakistan. He had disappeared from Srinagar around last week of August 1947 and went to Pakistan for this purpose. After consulting Pakistan authorities there, he arranged for arms and ammunition which were smuggled into the State and were distributed mostly in Poonch sector and also in Mirpur, a major town in Jammu region. He was joined in Pakistan by Mohamad Abdul Qayum Khan, also from Poonch area, to seek help from Pakistan in men and material. It was to give impetus to the communal tension in the State, commencing from this area.

The clan of Abdul Qayum Khan was, however, *"very friendly with the succeeding Dogra rulersof Kashmir...... until 1947, enjoyed the considerable perks and privilages which had been given to them by the Dogra Rulers throughout their dynasty."* [107]

Abdul Qayum Khan later headed the Government of Pakistan occupied Kashmir. A man with humble position and means, Qayoom Khan was reportedly working as clerk in the Soldier's Board at Bagh and was allegedly dismissed on the allegation of misappropriation.[108] Due to pro- Pakistan later, he became Prime Minister of Pakistan occupied "Azad Kashmir". *"Volunteers from*

[107] M. Anwar Khan, A Critique on Incomplete Partition, P 9

[108] Prior to his dismissal, Sardar Abdul Qayum Khan was recruited in British Indian army in the World War II and was demobilised in 1945. He was very much impressed by Mr Subash Chandra Bose and his INA. Belonging to Tehsil Bagh (Poonch) he wrote a letter to his old schoolmate of the same Tehsil S.Teja Singh in 1946 who was then doing his M.A, L.L.B at University of Lucknow. Khan conveyed his admiration of the political philosophy of Subash Bose to S.Teja Singh (now retired Chairman of Public Service Commission, Jammu and Kashmir State) and had suggested him to return earlier to Bagh after finishing up his studies and to join alongwith him, the struggle of Subash Bose for independence of India. S. Teja Singh was himself a Student Activist with left leanings. But before Independence was achieved, Qayum Khan, as many other INA personnel, pledged support to Pakistan and joined anti India Camp, giving fillip to Islamic fundemantalism and worked against Indian interests.

Pakistan including several officers who had fought with the Japanese in the late War with the Indian National Army"[109] also supported them.

Among the Pakistan leaders who supported Poonch Muslim activists to create disturbance was Mian Iftikharud-Din. He was also assigned the task of visiting Srinagar by Mohamad Ali Jinnah, around mid August, 1947 to assess about chances of Kashmir's accession to Pakistan.

> *"Mian Iftikharuddin, it is said, had been asked by M. A. Jinnah at the time of the transfer of power to visit Srinagar to try to contact Kashmiri leaders and assess the prospects of (Kashmir's) accession to Pakistan. On his return from Srinagar (this would seem to be sometime in the first half of September 1947) Mian Iftiklharuddin, who had concluded that a peaceful settlement of the Kashmir question was unlikely, decided to support Mohammad Ibrahim Khan's movement."*[110]

Obviously, therefore, Mian Iftikharuddin, was not only sceptical about Kashmir's Accession to Pakistan, but also was not hopeful that Kashmir would come under the grip of Pakistan by ordinary means. He accordingly reported back to the Governor General of Pakistan, Mohamad Ali Jinnah. The already planned debacle of Kashmir under foot, was reoriented on war footing giving further vigour and spurt to alleged and "ostensible" (but fake) anti Maharaja movement for "Seperation" and "Independence" from his "Control", with and without connivance of British officers. From the above, the following points emerge:

I Jinnah and his other men were keen on Accession or Annexation of Kashmir with Pakistan by hook or crook from the very start when Pakistan was formed;

II Kashmir Issue was sought to be created by Pakistan for this purpose;

III Pakistan stood no chance to get Kashmir or a part thereof, short of using violence and treachery;

Pakistan, therefore, resorted to the following extreme co-ercive and unlawful measures and methods so as to achieve her ulterior motive of annexing Kashmir-:

a) Pakistan defied the Standstill Agreement in relation to Kashmir, covertly and overtly undermining her position;

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109 Alastair Lamb, Kashmir- A Disputed Legacy, P. 124;
110 Ibid.

b) Denied and with-held impliedly, all administrative services and commitments made and other incidental things thereto, to the State of Jammu & Kashmir;

c) Initiated and contributed to develop a serious internal situation of chaos and confusion in the State;

d) Engineered internal disturbances and communal riots;

e) Sent the armed tribesmen alongwith army personnel in civil clothes to fight out forces of resistance, loyalists of the Ruler and supporters of India in the State;

f) Dispatched to the State, regular Pakistan army, following the tribesmen in order to retain and control the areas captured;

For this purpose, Pakistan Government formed and appointed a separate and regular cell and command for undertaking armed operations in the State of Jammu & Kashmir. It was a regular aggression and invasion of the Jammu & Kashmir State by Pakistan usurping forcibly and illegally about 1/3rd area of the State.

As already mentioned, a communal uprising was started apparently at the instigation of Pakistan authorities in the Poonch sector of the State to facilitate the aggression and annexation of Kashmir. Similar armed and communal riots were initiated and organised by the Pakistan authorities in the District Mirpur also. Some writers and authors have, either due to ignorance, or out of their bias, tried to argue wrongly and canvass that the Poonch Muslims were unhappy with the Maharaja, because of which they rose into revolt against him. It was Pakistan's ploy to conceal the truth of her evil designs and armed intervention in and raid over the State, terming it purposely and wrongly as the attributes of a local Muslim revolt against the Maharaja. That it was not: this version. M.Anwar Khan counters it. He says:

> *"it would not have been possible for any ordinary citizen to lead a resistance movement against the Ruler of Kashmir unless he enjoyed some form of status in the area".*[111]

The winds of communal violence on pre and post partition of India had also its impact in such Muslim areas. It was in fact, the Pakistan Government's attempt to make them appear as unconnected with these alleged local "uprisings" in certain parts of the State, which they initially strived to make believe the people's movement against the Maharaja. The former Poonch jagir is cited as a representative example of it. If it were correct, how then the communal disorder and violence occurred in Mirpur and other places as they had perhaps nothing substantial to say against the Maharaja. It was all initiated, aided and

[111] M. Anwar Khan, A Critique on Incomplete Partition, P. 9, Sussex, U.K

supported by Pakistan Government, which actively contributed to it. The version that it was a local movement was, therefore, projected by Pakistan only as a subterfuge to conceal the Pakistan Government's bloody hand behind these anti-people, communal and barbaric acts in the State.

In view of the far reaching and decisive political developments that overtook the Subcontinent in 1947, Maharaja Hari Singh paid study visits to certain strategic areas of the State. His one such important visit was to Poonch. On the scheduled date of his arrival to Poonch town, the jubilant subjects from the length and breadth of the Poonch Jagir started pouring into the town to give a big and rousing ovation to their Ruler.

Among them was naturally, a large Muslim number, according to population. They included a good number of Ex. Service men of British army, who came with guns and attired in their decorated battle dresses. They all thronged the town in all eagerness and enthusiasm to greet the Maharaja: some wished to pay their respects and regards personally to the Maharaja and to have handshake with him; others wanted to be delighted and contented even if they could see a glimpse of the Maharaja; and all wanted to relish and applaud the Maharaja's speech if he chose to address them even briefly.

His Highness Maharaja Sir Hari Singh reached Poonch. He was however, requested by his Chief of the Army Staff, Maj. General Scott and by some Advisors to go back to Jammu as the huge Muslim public had assembled to play mischief against his Highness. Maharaja, therefore, followed the advice and left Poonch for Jammu without public appearance and without granting audience to any person or delegation. This was allegedly the conspiracy of the Maharaja's Chief of the Staff Maj. General Scott and the Inspector General of Police, Powel, both were Britishers and had reportedly soft corner for Pakistan. It was to create deliberate resentment against the Maharaja. When impatient public came to know about this cold attitude of the Maharaja they felt disrespected, offended and disappointed. Their feelings were injured and sentiments crushed. This created a wedge between the Ruler and the subjects, particularly Muslims which narrowed not but widened enough.

The politically interested quarters exploited this situation to their advantage. Pakistan's first direct raid over the State at Muzaffarabad became easier and just a smooth sailing due to consequent change of loyalty in the Maharaja's Muslim majority troops posted at Dheerkot (Poonch) nearer to Muzaffarabad and at some other places. They treacherously killed their fellow non-Muslim soldiers and joined Pakistan raiders openly. It helped to bring about immediate fall of a big Hindu town and business Centre, Muzaffarabad and blood bath taking place there.

Major General, Akbar Khan was made Commander of Pakistan Military Operations in Kashmir. In order to hide his identity and keep involvement of Pakistan Government in it a secret, Khan worked under the pseudonym of "General Tariq". He had, among others, meetings with Prime Minister of Pakistan, Liaqat Ali Khan, Finance Minister, Ghulam Mohamad, Governor of West Punjab, the Nawab of Mumdot and a Minister of Punjab Government, Shoukat Hayat Khan. This Army cell of Pakistan Operations, devised ways and means to organise and flare up Muslim communal upsurge first in Poonch Sector and followed at other places in order to capture Kashmir forcibly[112] with Muslim support and elimination of non-Muslims.

Mohamad Ali Jinnah was the main Muslim League figure and authority in Pakistan who could shape and change decision on the State of Jammu & Kashmir. The policy or suggestion of any other men of weight and influence, on the Pakistan Government or Muslim League, were of no consequence. During the attack of Pakistan on the State of Jammu & Kashmir, Lord Mountbatten, in his last bid for reconciliation with Pakistan, rushed to Lahore. He conveyed the proposal of Sardar Patel to the Prime Minister of Pakistan, Liaqat Ali Khan, of taking Kashmir and letting go Hyderabad Decean to India. Liaqat Ali Khan did not make any commitment to the Governor General of India, Lord Mountbatten at that moment. The Pakistan Prime Minister knew about Jinnah's stiff attitude on Kashmir, which had become a prestigious point for him. Sardar Shoukat Hayat Khan, a prominent Muslim League leader and Minister was in charge of over all Kashmir Operations. He says about it:

> *"Later, during the attack on Kashmir, Mountbatten came to Lahore. At a dinner attended by Liaqat, Governor Mudie and the four Ministers of Punjab, Lord Mountbatten conveyed the message from Patel, the strong man of India, asking Liaqat to abide by the Rules over the future of the Indian States previously agreed upon between the Congress and the Muslim League: that those States whose subjects made up a majority of a community and the State was contiguous and adjoining a dominion would accede to the adjoining country. Patel had said that Pakistan could take Kashmir and let go Hyderabad Deccan, which had a majority Hindu population and was no where near Pak by sea or land. After delivering this message, Lord Mountbatten went to sleep in the Lahore Government House. I, being in over all charge of the Kashmir*

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[112] Ex. Major General Akbar Khan's book, Raiders in Kashmir: Story of the Kashmir War (1947- 48, Pakistan 1970, P. 17. A background of Pakistan raid on Kashmir with Pakistan version, is given in this book.

operations, went to Liaqat Ali Khan. I suggested to him that, as the Indian Army had entered Kashmir in force and we would be unable to annex Kashmir with tribal Mujahids or even with our inadequate Armed Forces, we should make haste to accept Patel's proposal."

"Nawabzada turned round to me and said, "Sardar Sahib, have I gone mad to give up Hyderabad State which is much larger than the Punjab for the sake of the rocks of Kashmir?"[113]

This makes abundantly clear, the lack of sympathy for Kashmiris particularly for Muslims, in the mind of Pakistan authorities. They are overwhelmingly pervaded by the selfish and acrimonious, aggressive designs of expansionism. Shoukat Hayat Khan expressing surprise on the reply of his Prime Minister, says further:

"I was stunned by the Prime Minister's reaction and ignorance of our geography and his lack of wisdom. I thought he was living in a fool's paradise and did not understand the importance of Kashmir to Pakistan while hoping to get Hyderabad, which at best was only quixotic wishful thinking. It (Hyderabad) was not connected with Pakistan anywhere. As a protest, I resigned from the position I was holding in Kashmir Operations."[114]

The above lines show the inner conflict and confusion that existed among the Pakistan leaders on the expansionist designs. It also revealed how keen Lord Mountbatten was to see that Kashmir went to Pakistan. It was a part of the British game about Subcontinent which vivisected it so callously and made the people of the same country groan with this wound unhealed despite lapse of over half a century. This appears in different forms and has engulfed Kashmir also. Patel was not indifferent to Kashmir. He was vigilant and had taken initiative in sending, General Kariappa on a survey mission to Kashmir much before the raids. He might not have been prepared to exhaust India by fighting on different fronts, when the freedom itself was a new born baby.

Pakistan could not depend upon the Maharaja, nor she found any alternative but to proceed and handle Kashmir with the support of army. A clear confession was made to this effect by the Incharge of Kashmir Operations, Shoukat Hayat Khan, when he wrote in his book:

"Seeing the Maharaja's and India's bad faith, we therefore decided to walk into Kashmir. I was put in charge of the operations..... Taj was made commander on the Northern Front while General Kiani

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[113] Sardar Shoukat Hayat Khan, The Nation that lost its Soul, P. 176, M. Anwar Khan, a Critique on Incomplete Partition, PP 5,6 Sussex, U.K

[114] Shoukat Hayat Khan, The Nation that lost its Soul P. 176.

was put in charge of cutting off the Kathua Road by taking over Akhnoor, thus cutting of Kashmir from any (contact with India)"[115].

Hinting to his plan of attack on Jammu & Kashmir, the above Incharge of Pakistan Operations in the State, disclosed that secrecy was the essence of this attack which he feared was jeopardised. Pakistan Finance Minister, Ghulam Mohamad had recommended to him to include his kin, Major Khursheed Anwar of the Muslim League National Guard, in the High Command. When he refused, the above Finance Minister and Liaqat Ali Khan, Prime Minster "beseeched" Shoukat Hayat Khan Incharge Operations in this regard. He says:

"I had feared that he may, in his enthusiasm, use outsiders in operations. He was banned from employing tribals from the Frontier or asking for arms from a military source. All the conditions he was to disobey, jeopardising the entire operation. I was asked to release forty thousand rupees as his budget. This money was misused by him for transporting the tribesmen from Mahsud and Mohmand areas.

We had planned to attack Kashmir in a pincer movement from Muzaffarabad and through Kathua Road. We had planned to utilise only the Black Mountain tribesmen of Swat to cross-contiguous hills adjoining Kashmir and had decided to employing other tribals for the sake of surprise and secrecy.

Suddenly we got the news at Rawalpindi Headquarters that Khurshid Anwar had flouted my orders and worked up the Mahsud tribesmen of Waziristan to come and take part in an Islamic Jihad (religious war)...

He also disobeyed the other order to keep away from the Pakistan Army, by going to Brigadier Iftikhar in Nowshera and asking him to make available some military machine guns to the tribesmen.

...Brigadier Iftikhar reported to his superior, Commander-in-Chief of Pakistan who reported the matter to Sir Claude Auchinleck, the joint Commander of the Army in India and Pakistan. Governor Cunningham... suddenly got reports from his political agents that tribesmen were being utilised for attacking Kashmir. He passed the news on to Mountbatten... However, when we launched our attack, we went through the Kashmir Army."[116]

The unrest created in the people of certain parts of the State, was presented to the world by Pakistan as their spontaneous uprising against the Maharaja allegedly due to "suppression" of Muslims

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[115] Shaukat Hayat Khan, The Nation that lost its soul, P.213.
[116] Ibid. PP. 213-14.

in the State. Pakistan Radio and subsequently Radio Azad Kashmir, started a regular campaign of propaganda, untrue, baseless and false, flaring up the Muslim sentiments against the Hindu rule. Holding it the cause of their suppression and other maladies, they were not allowed to join Pakistan they wished to, alleged Pakistan controlled media. The fact is that it was Pakistan initiated and escalated tension. Clarifying this, Pakistan Minister and Incharge of Kashmir Operations, Shaukat Hayat Khan, further belied Pakistan Government and her plea of Non Aggression on Kashmir. He said:

> *"When I got up to Muzzaffarabad border beyond which I was not permitted to proceed, I was clearly instructed that as a Minister of the Pakistan Government, I should not be caught in Kashmir, and that it should remain an unofficial uprising.*
>
> *I had removed 4,000 locally made rifles from the Lahore Fort...I went personally to get them out. These rifles were sent to Kiani". British army in Pakistan saw ruthless killing of non-Muslims there and unprovoked and unlawful raid of Pakistan upon Kashmir. They on a high level tried to avoid this blood bath of Pakistan and decided to destroy the Pakistan's small arms and ammunition by dumping it into the Sea. But Pakistan Government on learning about it, immediately stopped it and used this ammunition in Kashmir. Punjab Minister of Pakistan Shaukat Hayat Khan discloses further: "For the ammunition, I had to fly in a two-seater Trainer Aircraft to Karachi..... I found that the British, before leaving, wanted to destroy all the ammunition and had ordered tons and tons of small arms ammunition to be dumped into the sea. I managed to stop it being dumped by getting Quaid-i-Azam (M. A. Jinnah) to order the local commander to desist from destroying this ammunition. Therefore, the Railway wagons carrying ammunition were returned. This was distributed between the two fronts. In addition, we blockaded all petrol and food going into Kashmir."*[117]

After going through the above lines, it transpires as to where fault lies: it establishes beyond any doubt, not only the complicity of Pakistan Government in creating trouble for the people of the State, but also commission of crime by openly raiding Kashmir and indulging in wholesale massacre and holocaust and destruction of peace and security. It is Pakistan, therefore, which has brought the State to the present pass. The origin of Pakistan herself is based on creating disunity of a people and a cult of violence. She has sponsored and bred gun

[117] Sardar Shaukat Hayat Khan. PP.213-14.

culture in Kashmir. She failed to take due notice of the resistance offered by the people of the State on the whole.

In order to give Pakistani Operations in Kashmir a cover of people's fight, "*a few persons conspired at the Paris Hotel in Rawalpindi on 4th of October 1947. They announced formation of Independent Government of Kashmir. Virtually fake Government to cover up the raid by Pakistan. They, therefore, "wished to destroy the unity of Jammu & Kashmir State as well as its people for their own selfish ends as the members of the Muslim League had already achieved in India.*"[118]

It may be stated that the tribesmen were utilised by Pakistan Government to fight and capture the State of Jammu & Kashmir for Pakistan. Apart from fighting, they indulged in looting and sharing spoils wherever they reached. It delayed their advancement with the result that the Valley of Kashmir could not be captured, According to Pakistan's view:

> "*Taj Khanzada's Force, Khurshid Anwar and his tribesmen came to a halt at Baramulla. The tribesmen refused to obey Khurshid Anwar's orders.*
>
> *The dispute was over the petty, amount lying in the Kashmir Treasury. Khurshid, argued that it would belong to Pakistan while tribesmen averred that it would belong to the Mujahids.*
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> *In actual fact, it consisted of a paltry sum of three lakhs rupees. Tribesmen insisted that they would celebrate the Eid (the festival of sacrifice) before they moved forward. For three days they would not move. They started looting locals and cutting lockets and earrings from the Nuns who were running a Convent at Baramulla. Eventually, after great exhortations from Sher Dil, Deputy Superintendent of Police, who was acting as a liaison officer, they moved forward. The Indian Army Battalion, the 11th Sikh Regiment, was already at Srinagar. .... Instead of going forward and taking over Srinagar Airport, these Pathans started looting bazaars and wasted precious time. By then more Indian reinforcements arrived by air into Srinagar. We lost Kashmir through our own blunders and bungling.*"[119]

The above record of relevant facts, significant indeed, Pakistan Government and concerned authority who dealt with the Kashmir Operations, on behalf of Pakistan, throws a flood of light on the following points:

I Pakistan Government created, fomented and escalated trouble in the State of Jammu & Kashmir;

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[118] M. Anwar Khan, A Critique on Incomplete Partition. P.13.
[119] Shauqat Hayat Khan, The Nation that lost its Soul. P.214.

II Illegal armed interference and intrusion into and aggression of Jammu & Kashmir was started by Pakistan;

III Crime has been committed and is being committed continuously by Pakistan against the people and the State of Jammu & Kashmir as part of India;

IV This was done by Pakistan to annex Jammu & Kashmir forcibly and by illegal means.

V Pakistan had no right or claim over Kashmir otherwise but lost it in war also.

Maharaja Hari Singh showed signs of a subtle Ruler and ruled under the stress of baffling situations and circumstances. He had mounting pressure from all directions to mellow down if not to surrender in total. If he wanted to uphold Indian interests by Acceding to India, he had first to surrender before Sheikh Mohamad Abdullah and his National Conference. He was not required by law to share power with Sheikh Abdullah and his Party. But to transfer power to his pardoned captive, was a long standing demand of the Congress rulers. Yes! It was their demand before partition and Independence of India and in post-independence period, it became condition precedent to Maharaja Hari Singh from the Indian "popular Rulers", for execution of Instrument of Accession in favour of India.

True, before August 16, 1947, the Maharaja could not conceive to Accede to India, much less to execute Instrument of Accession in favour of India as Kashmir appeared to have no surface link with India till then. Government of India was pursuing the matter of surface route so that Jammu and Kashmir was connected with India through a road link. To the entire amazement of Pakistan, when Radcliffe Award was announced on August 16, 1947, allotting, three tehsils-Gurdaspur, Batala and Pathankot of the District Gurdaspur to India, it changed the whole complexion of the Kashmir situation. Kashmir was now directly adjoining India, connecting the State to India through Lakhanpur-Pathankot route. Lord Loius Mountbatten, former Viceroy and later Governor General of India (who was not internally favouring India and wanted finally Kashmir's Accession to become a bone of contention between India & Pakistan) was happy over Radcliffe Award, allotting Pathankot area to India, providing approach road to Kashmir with India. He, therefore, immediately gave his reaction and highlighted tactfully the idea of "Referendum" in Kashmir (though against the provisions of Indian Independence Act) before execution of Instrument of Accession:

> *"He (Mountbatten) was pleased to note on 16th August, after the 'sacking' of Kak, that the Maharaja now talks of holding a referendum to decide 'whether to join Pakistan or India, provided*

that the Boundary Commission give him land communication between Kashmir and India; Mountbatten went on to observe with obvious, but misplaced, relief: 'it appears, therefore, as if this great problem of the State has been satisfactorily solved within the last three week's of British rule."[120]

For recruitment of tribesmen to infiltrate and invade the State of Jammu & Kashmir, British Governor of North Western Frontier Province George Cunigham played an active role. He fully co-operated with Pakistan Government, in recruiting and creating a large number of non-army assault and combative force, to over run the State and annex it with Pakistan forcibly and illegally. According to reports, about 5,000 Pathans were enrolled initially, for the purpose, whose number swelled within days to a very high figure, incredible perhaps:

"About 5000 Pathan tribesmen had been recruited by an officer of the Political Department of Pakistan with the active help of the British Governor of the NWFP on all kinds of promises of gold, women, loot and what not. They were thrown on the State, the bid being to capture Srinagar and the Maharaja and dictate terms to him and get him sign the Instrument of Accession as demanded by Mr. Jinnah".[121]

Aggression of Jammu & Kashmir by Pakistan continued even after the Ruler of the State, Maharaja Hari Singh executed the Instrument of Accession in favour of India, on October 26, 1947. Pakistan intensified her "military pressure on the State. Nearly 19,000 raiders had been reinforced in the Uri area and 15, 000 raiders were operating against the Western and South Western borders of the State."[122] It may give an idea about the continuous large scale and regular recruitment's of Afandhis made by Pakistan to deploy them in different areas of the State. Conscious of the unlawful aggressive military operations undertaken by Pakistan, she had not deputed regular army ahead of tribal raiders for some period in the beginning deliberately. Under the orders Governor General of Pakistan, Mohamad Ali Jinnah, Pakistan army was to move to the State.

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120 *Prem Nath Bazaz, Azad Kashmir, Lahore, P.33*

121 Mehar Chand Mahajan, Bhawan's Journal, dated December 5, 1965. Mehar Chand Mahajan was the Prime Minister of Jammu and Kashmir State at the crucial period of Pakistani Aggression and Kashmir's Accession to India. Former Judge of Punjab High Court and Member Radcliffe Indo Pak Boundary Commission, Mahajan was elevated to Supreme Court after resigning from Kashmir. He retired as Chief Justice of India and has passed away long back.

122 Ibid

"Two Brigades of the Pakistan army were also under orders to march into Jammu and Srinagar and take possession of the State by military strength and capture the Maharaja and his Ministers, on 27th October, 1947."[123]

On the advice of his British Commander in Chief, Jinnah, however, cancelled the order of marching of Pakistan army into the State.

"On the ground that one Dominion could not start a war with the other Dominion, mean time, Kashmir had become a part of Indian Dominion by Accession."[124]

While making a statement on Kashmir in the Indian Constituent Assembly, Prime Minister Nehru, gave some astonishing details of unwarranted aggression unleashed by Pakistan on India in Kashmir. Initially, taking undue advantage of Kashmir's Standstill Agreement, Pakistan prepared ground for creating unrest in the State and then took it by surprise when she launched a naked aggression on the State which was and is against all canons of justice and law.

"In addition to those actively participating in the raids, a large number of tribesmen and others, estimated at 1,00,000, had been collected in different places in the district of West Punjab bordering upon the Jammu & Kashmir State, and many of them were receiving military training under Pakistan Nationals, officers of the Pakistan Army. They were being looked after in Pakistan territory, fed, clothed, armed and otherwise equipped and transported to the territory of the Jammu & Kashmir State with the help, direct and indirect, of Pakistan officials, both military and civil. The equipment of the raiders included modern weapons, such as mortars and medium machine guns; the men wore the battle dress of regular soldiers, fought in regular battle formation and used the tactics of modern warfare. Man- packed wireless sets were in regular use and ever mark 'V' mines were being employed."[125]

About the invasion of Jammu & Kashmir by raiders, Jawahar Lal Nehru, Prime Minster of India, held Pakistan responsible. In a broadcast made on 2nd November 1947. He said:

"We talk about the invaders and raiders in Kashmir, and yet these men are fully armed and well trained and have competent leadership. All of those have come across and from Pakistan territory. We have a right to ask the Pakistan Government how and

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[123] Mehar Chand Mahajan, Bhawan's Journal, dated December 5, 1965.
[124] Ibid
[125] Jawahar Lal Nehru's broadcast from All India Radio on 2nd November 1947.

why these people continued to come across the Frontier Province or West Punjab, and how they have been armed so effectively...... Is the Pakistan Government two weak to prevent armies marching across its territory to invade another country, or is it willing that this should happen"[126]

The infiltration in and raid on Kashmir could not privately be possible by large number of tribesmen involved in it. Without having it sponsored by Pakistan Government this adventure could not be undertaken, which was started from the land of Pakistan. In his speech made thereafter, in the Constituent Assembly of India, Prime Minister Nehru attributed this carefully planned action to Pakistan. He said:

"They (Pakistan) helped the tribesmen and ex-service men to gather, they supplied them with the implements of war, with lorries, with petrol, and with officers... it is obvious that no large body of men could cross Pakistan territory in armed groups without the goodwill, connivance, and active help of the authorities there. It is impossible to escape the conclusion that the raids on Kashmir were carefully planned and well-organised by the Pakistan authorities with the deliberate object of seizing the State by force and then declaring accession to Pakistan".[127]

It was not simply a question of Afghani's infiltration into the State of Jammu and Kashmir with all encouragement and support rendered to them by Pakistan for invading the State. It was in fact, a parallel armed force organised by Pakistan against India in Kashmir, and the military operations were fully undertaken by Pakistan in Kashmir. Besides, capturing the State by force, the other equally dominating considerations for the tribesmen were many, including to encroach upon the property, life, honour and respect of the people. Jawahar Lal Nehru said:

"Incursions by the raiders into the State territory, involving murder, arson, loot and the abduction of women, were continuing. The booty was being collected and carried to tribal areas to serve as an inducement to the tribesmen to swell the ranks of the raiders."[128]

With all the efforts of Pakistan and help by pro Pak elements, Pakistan could not muster even a decimal support in Jammu & Kashmir. There were certainly vast forces in the State against Accession of Jammu & Kashmir to Pakistan. That being so, she tried to

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[126] Jawahar Lal Nehru's speech in Indian Parliament on 5th March, 1948.
[127] Jawahar Lal Nehru's speech in Constituent Assembly of India on November 25, 1947.
[128] Jawahar Lal Nehru's speech in Indian Parliament on 5 March 1948.

achieve Accession of the State by force or to annex it illegally. After aggression by Pakistan, Sheikh Mohamad Abdullah was shaken and he persuaded Government of India to accept the Maharaja's Accession which he endorsed. Sheikh Abdullah described the position to the press persons in the following words:

> *"Armed people infiltrated into the State territory and in many places there were armed conflicts. I came to Delhi to preside over the Standing Committee of the State's People's Conference. The very day I returned to Srinagar, news came that a large party of armed and well-equipped raiders travelling in motor lorries had entered Kashmir via Abbotabad Road near Muzaffarabad. These raiders created havoc and looted Muzaffarabad and other places. They marched towards Srinagar. It was obvious that this invasion was meant to coerce and compel the people of Kashmir to act in a particular way, namely to accede to Pakistan. Every Kashmiri was shocked by the raid and the ruin in the trail of this raid...they (Kashmiris) refused to be compelled to accede to Pakistan in this way. I came to Delhi for a few hours to consult my colleagues and to explain the present critical position in Kashmir to members of the Government of India. I asked them on behalf of the people for help in resisting this brutal raid. The Maharaja's Government had also made this request to the Government of India. I am now going back to my people in Kashmir to stand shoulder to shoulder with them in defending our heritage and our home land and to share with them the perils and sorrows that may be in store...I appeal to all lovers of freedom in India or Pakistan... to denounce the raiders who have come to bring sorrow and disaster to our country."*[129]

The people of the State resisted Pakistan aggression with empty hands but appearance of the Indian army on the scene after valid. Accession of the State to India, eased the situation.

Sheikh Mohamad Abdullah, in his Presidential address to the Annual Session of Jammu & Kashmir National Conference, referred to his Party's struggle and invasion by Pakistan. While expressing people's determination to fight out Pakistani raiders, Sheikh Abdullah said:

> *"The second period was ushered in with the bursting of shells and the whizz of bullets fired by the invaders from Pakistan. Our hearts full of prayer and our hands empty of weapons, we were determined to resist aggression. The ideals which the All Jammu & Kashmir National*

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[129] The Hindu, Madras, 28 October 1947.

Conference had owned as the purpose and goal of our national struggle stood by us as our inspiration. Our faith in the righteousness of our cause was our best shield against the perfidy with which Pakistan had threatened to sweep our land into bondage.... therefore, our struggle against Pakistan aggression is fundamentally a struggle of ideology, on which there can be no compromise."[130]

The Maharaja's Government had posted already several Companies of the State forces in the side of Muzaffarabad-Domel. This approach road was connected with Srinagar through Uri-Baramulla High Way of the time. "A" Company of the State Army was posted at Kohala. The Kohala Bridge was connecting Western Punjab (Pakistan) with the territory of Jammu & Kashmir. Kohala was not very far away from Rawalpindi (Pakistan). "B" Company was deployed at Barsala on the main road to Muzaffarabad and about one mile from Kohala. It was under the command of Lt. Labh Singh. Both these Companies comprised mostly Hindus. The other two companies "C" and "D" were Muslims. Out of them, a Palaton under the command of Jemadar Khawaja Ali Mohamad (of Srinagar) was deployed to guard an important post at Lohar Gali. Another Palaton, commanded by Captain Sher Mohamad, was posted at Brarkot which was formerly called Ramkot. Jemadar Nawab Din along with his Palaton was guarding the post at Dhup Gali. Other troops were divided into small contingents and were deployed at other strategic points. It included one posted at Treasury in Muzaffarabad under the command of Captain Mohamad Azam Khan, and at Garhi Dupatta, the Battalion was headed by Col Narayan Singh with Head quarter at Domel, gateway to the Valley of Kashmir.

Some of the Muslim Army officers and soldiers had already deserted the State forces and joined the opposite camp. The State Government had received intelligence reports that the communal virus was being spread in the State Army. There were, therefore, large scale desertions of Muslim Army likely to occur in the State forces and were to join with the raiders and saboteurs. The State Government disturbed as it was, directed accordingly Col Narayan Singh, the Battalion Chief at Domel, to disarm Muslim Army personnel at once. Col Narayan Singh, however, declined to obey this command to disarm them, "they are my trusted soldiers and have faithfully worked with me in the Middle East," Col Narayan Singh replied back to the Government. The Chief Commanding Officer, Col Narayan Singh

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[130] **Sheikh Mohamad Abdullah's Presidential address to the Annual Session of National Conference held in Srinagar in 1949.**

was again flashed to disarm Muslim Army personnel forthwith,[131] otherwise there was imminent danger. But the Officer Commanding Col Narayan Singh again resisted and defied the Government direction and conveyed back his unflinched faith and trust in his troops. The same thing happened what the Maharaja's Government had reports about.

In Muzaffarabad area, the Muslim Army personnel killed Maharaja's Hindu Army deployed in the area and joined Muslim communal camp. With Dheerkot, it started at Muzaffarabad and Kohala also. At Kohala Bridge when Hindu army personnel posted there, were asleep in the dead of night and their Muslim colleagues took them by surprise, and finished them.The popular Col. Narayan Singh was also not spared by his force. He was shot dead at his Head Quarter in Domel. From Haripore Hazra (Pakistan) raiders thus entered Muzaffarabad without any resistance. Wazir-i-Wazarat (Dy. Commissioner) Dooni Chand Mehta was among the initial targets. The Kohala Bridge was also opened and the raiders got easy entry into the State territory from that side also. State Muslim army openly joined hands with raiders on all the routes there. They all advanced towards Srinagar without much obstruction and adequate resistance. The Chief of the Army staff, Brigadier Rajindar Singh had himself to rush to the spot, comparatively with a small Dogra force and valiantly fought against disproportionately overwhelming and well-equipped raiders till he died in action. Muslim Army joining hands with the infiltrators, caused a huge damage to the property of Kashmir and a huge loss of life to the people of the State.

Across the border from Pakistan side, the following version has been advanced by former Chief Justice of "Azad Kashmir" Justice Mohamad Yousuf Saraf in his book:

> *"In consultation with the Deputy Commissioner Mehta, Col. Narayan Singh supplied some rifles and ammunition to the local Sikhs and Hindus. Muslim elements of the Battalion were perturbed when they learnt that their Commander whom they had loyally served for years, was arming non-Muslims...it was secretly resolved to help the local Muslims on the first available opportunity"*[132].

The supply of arms to some Sikhs/Hindus must have obviously been to fight the infiltrators and not the local Muslim majority on whose goodwill the Hindu/Sikh minority depended. This could be, therefore, in a way, to help and support the State Muslim Army to fight out the raiders effectively, if the Army were really sincere and faithful to the purpose they were deployed for. But it appears that the Muslim Army in breach of trust and discipline had already made instead, a 'common cause' with the fanatic Muslims and infiltrators.

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[131] Prime Minister of the State in the crucial period, Mr Mehar Chand Mahajan has also reffered about it in his Autobiography, Looking Back.

[132] Mohamad Yousaf Saraf, Kashmiri's Fight For Freedom Vol. II P. 892.Saraf was in politics and had shifted to Mirpur from Baramulla before the Aggression.

CHAPTER – VI

GENOCIDE OF NON-MUSLIMS IN PAKISTAN OCCUPIED KASHMIR

Muzaffarabad was set ablaze by anti Hindu/Sikh elements after entrance of the raiders. There were many Kashmiri employees of the State Government both, Hindus and Muslims, posted there. Some managed to escape, others fell victim to the brutality. It was a general massacre and holocaust of the Hindu/Sikh minority. Muslims like Abdul Aziz, (a Kashmiri by origin) and local leader of National Conference, did his best to save as many of the minority members as he could. But the gushing waters of flood can not be stopped by throwing a few bags of sand. The flood washes it also off. Abdul Aziz was ultimately sacrificed on the altar of Humanism and secularism! However, a different version appears in the Saraf's book:

> *"Master Abdul Aziz, leader of the local National Conference, Bodhraj Pleader, Faqir Chand and Chet Ram, prominent leaders of the Militant Rajya Sabha and a few others, were, shot dead on the banks of Neelam, just below the bridge, two or three days after the capture of Muzaffarabad. Master Abdul Aziz had secreted some local non-Muslims in his house. It is claimed that he was instigating trouble and that there were brickbatting from inside his house. Perhaps he was killed as a reprisal."*[133]

It passes one's conviction as to when in that atmosphere of awful lawlessness created by Pakistani infiltration, raid, rape, abduction and non-Muslim killings, Abdul Aziz or for that matter, any other Muslim would give protection to the non-Muslims, he would also cause brickbatting from his house, to foment trouble. These are the two opposite things, which are contradictory to each other. Such a behaviour could not be adopted by a well meaning man with normal wit and sense. A prudent man will not regard the inference drawn as correct and seems to be tainted with some oblique purpose, perhaps to show that in creating the fuss and trouble, the hand of National Conference through its activists like Abdul Aziz was involved. It seems hard to digest. Rajaya Hindu Sabha was a political Party

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[133] Mohamad Yousaf Saraf, Kashmiri's Fight For Freedom Vol. II P.897.

of Jammu Hindus. But it was not at all a militant Party: [134] It hints at playing down the carnage committed in the State by Pakistan and her supporters. As a consequence of this political catastrophe that befell the Hindu/Sikh minority in Muzaffarabad, Saraf's book throws light on this No 1 type of torture and killing due to the dastard actions of the pro Pak elements:

"One Jemadar Prem Singh, his daughter and wife committed suicide by jumping into the river. These were second type of torture and killings. There is no doubt that looting and abduction of women took place on a large scale but there is also no doubt that some local Muslims also indulged in these activities." [135]

A Socialist student leader, Amar Singh "Niddar" was also not spared by the raiders. Any type of torture, cruelty, humiliation, mayhem, killing, forced suicide by taking poison and by jumping into wells and into rivers for drowning, rapes and abduction that a man can conceive of or contemplate, was the fate of Hindu/Sikhs in Muzaffarabad. Such were not the few isolated cases here or there, but the general trend that was enforced and implemented. A former Kashmiri Hindu employee still alive, has horrible tales of woe and wail to tell on the basis of his personal experience and the trauma he had underwent at Muzaffarabad. There were groups of young ladies and girls, mostly half naked, lined up for rape and abduction, duly guarded, stated Janki Prashad Malla.[136] They had hardly any chance to run away and escape the tortuous death, mental, moral and psychic, if not physical and clinic; a death in the eyes of their father and mother, brother and sister or son and daughter or husband. It is a painful death nevertheless, snatching and snapping within moments, all relationship and destroying all emotions!

He had seen non Muslim male groups also there, lied down on the streets and inside rooms, with stretched necks, heads chopped off with sword one by one, a shocking scene, more frightful than the slaughtering of lambs. Being in the service of State Medical Department and posted then at Muzaffarabad, he would oblige many by administering free

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[134] The elucidations made, however, are not intended to cast doubt on the material contents of the book, by Justice Mohamad Yousaf Saraf who has done the job that was assigned to him by Pakistan Goveernment, after putting in labour of years to collect facts as far as possible to him.

[135] Saraf, Kashmiri's Fight. Vol.II P. 897.

[136] Janki Prasad Malla was transferred and posted as Cashier in the Medical Department, Muzaffarabad, before the raid. After raid, he did not find any chance to run away from Muzaffarabad for quite some period and had to live there as a Muslim under the name of Abdul Rashid. This stout young man found an opportunity to escape along with a few other stranded Kashmiri Muslim employees of Srinagar. I have seen his unpublished manuscript " Rakas" (in Urdu) written about Muzaffarabad tragedy based on his personal experience. He is presently living in Delhi.

medicines, perhaps the reason that he was saved for many days after fall of Muzaffarabad and entry of the raiders, I completed the sentence.

No worse than them, I was immediately corrected "butchers supported by locals," I shuddered. Hindu/Sikh ladies and girls had assembled at a place for safety purpose. On one saddest and depressed evening, helpless as their male management felt, they told them to take tea with some available eatables and spent the night without meals for paucity of food stuffs. They were served with the tea. They died in the darkness of the night, full of tension and commotion, as the previous a few nights were. But this commotion yielded to the stillness of their lives for ever. Those who died a little later also did not see the dawn of the next day as the dawn of their lives was engulfed by the darkness of the night. The non- Muslims saw no reinforcement coming and felt no chances of their safety with honour, they were given poison with tea with hearts bleeding and made to die, their nearest and dearest ones. Does these things happen anywhere in the Globe? Is this the legacy of Pakistan for the State of Jammu and Kashmir to bear?

Shambu Nath Thalchor a Kashmiri Hindu posted at Muzaffarabad, apprehended kidnapping of his young daughter. He arranged poison for her and killed her himself, forced by the circumstances as he was. The members of the non-violent and peace loving community were not prepared to kill their enemy, but Thalchor prepared himself to poison and kill his own daughter by his own hands. Many Hindu/Sikhs were lined up in a street one day to be shot down by the raiders. Malla was also caught and kept in the line to die. Fortunately for them all, the IAF Bomber came by that side. The raiders ran away crying "Khuda ka Baita" as they would call the IAF Bombers/ Fighters. The persons standing in the line also found ordinarily opportunity to run away. Raghnath Karwayun of the Medical Department, Muzaffarabad and one Sarwanand were dastardly killed at Domel by the raiders, while they were on their way to home in Srinagar. Shyam Lal Labroo, Vidh Lal Trichal and Dhina Nath Bandho (Brother of Kashyap Bandho) all the three Kashmiris, were kidnapped from other places and brought to Muzaffarabad.

One time, Janki Prashad Malla and some other Kashmiri Hindus took refuge in the house of a Kashmiri Muslim. Some raiders were also there. They praised Kashmir, says Malla. It were not the tribal men who raided, but they included regular Pakistan Army Officers and soldiers, many not in army uniform, said Malla.

Janki Prashad Malla found one day, himself also in a que at the second storey of a house with windows closed. Taking slow paces with pauses alongwith a group of other non- Muslims of different ages. It was a point where he was heading to lose the head and life at the stroke of a sword. All weeping though forbidden to cry, he wanted to look

outside world once again from a window of this new SlaughterHouse for the Hindu/ Sikh males, as his turn to die was nearing. With a flash, he opened the window and jumped out falling luckly on a heap of grass. He wondered how he mustered courage and strength and ran away with a lightening speed amidst the firing from the windows above to kill him.

He saved himself then with another Kashmiri refuge seeker, Hirday Nath by hiding in a stock of hay in the compound of a desolated house. His feet, however, touched the body of a third person concealed under the hay. On his enquiry he learnt that a Sikh gentleman was hiding himself there already. He thought Hindu might be spared but Sikh was not to be spared. Both of them, therefore, ran away from this place. From Janki Prashad Malla, he became then Abdul Rashid and mixed with the raiders etc as a Muslim.

This made his movement easy and possible. He went one day to a jungle in the hilly side where he had gone previously for hiding for one or two days. Many Hindus and Sikhs, male, female and Children were hiding there, starving and thirsty. One lady was pregnant for whom Abdul Rashid had taken some grains there tactfully previously. But this time, he did not find anybody there. All were massacred. He returned heart broken. After partition of India in 1947, the Hindu/ Sikh population of Muzaffarabad had very much increased due to the influx of refugees were from Haripore Hazara area of Pakistan. Almost all of them were also killed in Muzaffarabad area in the Maharaja's Secular State by the raiders and their local supporters.

These refugees and from Jehlum side (Pakistan) were not encouraged by the Maharaja to settle in Kashmir Valley. After Pakistani raid a small number of Hindu/ Sikh State Subject refugees from Muzaffarabad District had entered the Valley via Domel-Baramulla Road. They also were not allowed to remain and settle there. Sheikh Mohamad Abdullah did not like them to remain and settle in Kashmir Valley and got them despatched out of the Valley.

It was neither end of the tale, nor of the tragedy. Those Hindus/Sikhs who could manage to hide themselves survived some how the onslaught. They had the new lease of life only after they converted to Islam and lived as Muslims. Some of their offshoots today, may also be amongst the ones, out to wipe out non- Muslims and help in getting the land annexed, who claimed it to be their Birth Place or part of motherland. Among others one such family was a Kashmiri Hindu, known as Tara Chand B.A. at the time of raids he was working and posted as Tehsildar Muzaffarabad in 1947. Zafar Ahamed of Zaina Kadal Srinagar was the Naib Tehsildar. Tara Chand's son Sri Krishan, (a student of Aligarh Muslim University) was on vacations and proceeded to his home in Srinagar, but in between broke his Journey at Muzaffarabad to see and stay with his father

and sisters, for some time. Muzaffarabad was raided meanwhile, and it had a fall. Tara Chand B. A. along with his two unmarried daughters and the son arranged to make exit from Muzaffarabad with the help of his Muslim friend. Nazeer, son of the Zaildar.

While the party started journey towards Kashmir Valley, Tara Chand recollected that he had forgotten his valuable Pashmina "Dhussa" at the residence. He insisted that he would go back and bring the same quickly along-with. But he did not return. His worried son and daughters went back towards Muzaffarabad to search for their father. They were still walking when the SHO, a Muslim and supporter of secessionists saw them and got hold of the eldest daughter of Tara Chand. But Nazeer had a scuffle with the SHO and did not allow him to abduct her. SHO did not relent and was keen to get her. Nazeer shot at SHO from his pistol and then proceeded ahead.

Sri Krishan and his sisters found their father but all of them were trapped in this "New Pakistan" and could not go back to Srinagar. They were converted to Islam and lived as Muslims in Muzaffarabad. Tara Chand was appointed by the New Government as Assistant Commissioner Relief. Ashiq Hussain, (Munsiff Sopore earlier) was appointed Relief Commissioner. Administratively, Muzaffarabad was a part of Kashmir Division, though its inhabitants were non- Kashmiri. It was a District Head Quarter and the seat of Wazir-i-Wazarat, (present day Deputy Commissioner).

Tara Chand, however, could not bear the shock of conversion and staying back at Muzaffarabad away from his wife in Srinagar. He died two months later and was buried. His wife was doubly shocked in Srinagar and remained in bad condition. Sri Krishan (Muslim name not known) some how arranged through Red Cross Society his transportation to Srinagar along-with his two sisters, in April 1948. On their home coming they returned to their Hindu religion immediately. Sri Krishan has already retired from the service of Jammu and Kashmir Government as Joint Registrar.

Many other Hindus/Sikhs there as Muslims, found no chance to return to Kashmir, their offshoots may have come to Kashmir today, as Muslim terrorists without knowing the tortuous past of their ancestors and hounded out the Hindus of their homes in Kashmir.

The Hindus/Sikhs in other areas of Muzaffarabad, which they inhabited, met somewhat the similar fate. A number of their ladies and girls jumped into Kishan Ganga, to escape the wrath of and

molestation and abduction at the hands of the Muslim fundamentalists, raiders and infiltrators.

After two capital cities of the State, Jammu and Srinagar, Mirpur was populous, prosperous and rich town in the State. It was a District Head Quarter with Hindu majority. According to 1941 Census of Jammu and Kashmir, the population of Muslims in Mirpur District was, 310880, Hindus, 63629 and Sikhs, 12111.[137] After partition of India, the Hindu/Sikh refugees from adjoining Jehlum District of Punjab (Pakistan) came in sizable numbers to predominantly Hindu town of Mirpur, 25 miles from Jehlum town. Its population rose to 25,000 approximately. These refugees thought Mirpur a safer place, being part of Maharaja's State, least knowing its borders were most vulnerable to Pakistani raid and attack. Some time after partition the small Muslim population of Mirpur had left the town. Its other two important towns, Bhimber and Kotli had also Hindu majority. Dadiyal, a small township at a distance of 10 miles from Mirpur and only 4 miles away from Pakistan border, had an overwhelming prosperous Sikh population. Muslim League disturbances of March 1947 in Punjab, had its ramifications sooner or later in certain other parts of the State including Poonch.

After mid September 1947, many affluent Hindus apprehending danger from Pakistan, began to shift their families to Jammu. A bus carrying such families *"was ambushed by Dost Mohamad and his comrades at Pir Gali, at a distance of twelve miles from the old Mirpur town".*[138] All these passengers were looted and some killed. The Bus, therefore, had to go back to Mirpur, creating communal tension in the area. Pakistan raiders with the support of Pakistan army made now frequent and intensive attacks on non-Muslim majority areas of the District Mirpur. Being a rich and strategically important town and District Headquarter, Mirpur became a special target of attacks by Pakistan raiders.

A garrison of 200 Dogra army was already there and repelling the attacks by the raiders/ tribesmen from Pakistan. However, the first regular Pakistan army attack on Mirpur town was made on 1st November, 1947.The first Defence Line of Mirpur was Dadiyal, an affluent and flourishing Sikh township, at about 4 Miles short of Pakistan border also used to be the target. The males shifted their ladies to Mirpur and themselves stayed back to defend Dandiyal, popularly known as Sri Partap Singh Pora. They resisted the attacks without any army help till last week of October, 1947 when their ammunition exhausted and they left for safety to Mirpur. Bold and handsome Raja Harbans Singh (Maharaja Hari Singh had given

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[137] Jammu and Kashmir Census, 1941.

[138] Mohamad Yousuf Saraf, Kashmiri's Fight for freedom Vol. II P. 957.

him the honorary title of Raja), was in front on a horse back as Vanguard to these fleeing people.[139]

A non-Muslim hamlet on the end of the State border adjoining Pakistan called Hill was also vacated by the harassed people to take shelter at Mirpur about 30 Kms from this village on the left to Mirpur at Bank of River Jehlum. Across the River was District Rawalpindi of Pakistan. Government of India's Patiala forces reached Jammu on 3rd November, 1947. But no reinforcement was despatched to Mirpur. While resisting the Pakistan's regular armed aggression and attacks on Mirpur, the Dogra army ran short of ammunition. D.C, Rao Rattan Singh left Mirpur for safety to Jammu, accompanied by 200 Dogra Jawans. The loyal people resisted and faced the aggressors, but the Government of India desisted or failed, even after lawful Accession, to help and protect these people and this territory of India in the State of Jammu and Kashmir. A heavy toll of Hindus/Sikhs was taken by Pakistan in Mirpur area alone.

"----- More than 30,000 Hindus and Sikhs were killed in tribal attack----- no force could reach Mirpur. The brave people of Mirpur, organised civil defence under the able guidance of Master Avtar Singh, S. Mohan Singh, Raja Harbans Singh etc and held back the enemy till 25th of November, 1947 when city fell to the enemy with martyrdom of the aforesaid youth. More than 18,000 persons of Mirpur fell to the bullets of the raiders".[140]

The confused non-Muslims in Mirpur, teeming thousands male and female, old and children, were left in the lurch and without any direction, children and women raising cries and shrieks. The people started leaving Mirpur for safety in a huff, in different groups and in different directions. A young couple, Raj Kaur (23 years) and her husband Preetam Singh (27 years) married around two months back, saw no ray of hope for survival but only darkness. Utterly dismayed, they both jumped into a well and committed self-killing. A reference has already been made about the condition of the people assembled at the District Court. But what happened to others, who rushed to other side, were besieged and then finally lodged in Alibeg Gurdwara Complex as captives, is no less tragic and heart rending. The journey to this Gurdwara concentration camp, 15 miles from Mirpur, was as painful and tortuous as it was dreadful and awe inspiring.

A big caravan of Hindus/Sikhs left Mirpur for unknown destination in search of safety and security. They Knew not

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139 Swarn Singh Shaktiman, Kashmir Tay Sikh (in Gurmakhi script) P. 206

140 Dr Kulwant Singh's write up, published in Mirpur Sikh Foundation of India Newsletter, September 1999. A retired Director, J&K Animal Husbandary, Dr Kulwant Singh hails from Mirpur town and is a brother of Master Avtar Singh (killed) and nephew of Late Sardar Budh Singh, a veteran leader and freedom fighter.

whether their foot journey would end up in their death or lead to a safer place to get lease of life. They walked under the showers of bullets, coming from a distance. Some times trying to hide up themselves and other times, ducking down to escape gun shots. Not even a mile was covered by them when Master Avtar Singh got a fatal bullet injury[141]. He could not walk and sat aside. His mother, Lakshmi Devi and other accompanying relations also stopped, but young Master advised them not to wait and flee lest they should also become victims. Weeping and wailing, they left him alone and proceeded ahead in slow paces, giving him back looks more than the steps they were taking. He, however, succumbed to gun injury.

The caravan swelled to about 15,000 enroute, as many other fleeing Hindu/Sikhs from other nearby places joined it. However, the situation being explosive and confusing, every group made its own judgement and took different routes and paths according to its own wisdom. Raja Harbans Singh and his companions faced the encounters and tried to defend and save the caravan. After walking about 10 miles, their ammunition finished and they thought it difficult to save any longer even their own kith and kin in the caravan. Raja Harbans Singh, therefore, stopped further advancement and decided to finish up his nearest and dearest ones before they fell prey to the raiders and other Muslim fundamentalists. As such, he shot and killed his beautiful wife, Bibi Basant Kaur, beautiful unmarried sister, Brijandar Kaur and beautiful little daughter. He then fired at his 5 year old son whose leg was injured, but survived.[142]

Raja Harbans Singh took this extreme step when only five bullets were left with him.[143] With the last bullet in hand, Raja had either to kill his son with this bullet or to use it to end his own life. The choice was hard to make. Raja did not want to spare himself to witness any humiliation helplessly, so he decided to kill himself and not his son, with the last bullet which he did.[144]

Tragedy after tragedy occurred. Mother, sister and other women folk, pressed hard Bhai Mohan Singh to kill them, so as to spare them the embarrassment of abduction and molestation. He obeyed the demand and killed his mother and sister besides other 20 ladies. Bhai Mohan Singh then killed himself. In the course of flight, Mahatma Budh Singh's son Rajinder Singh and grand son were also killed dastardly. A group goings

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[141] Master Avtar Singh was the nephew (sister's son) of late S. Budh Singh a founder leader of National Conference

[142] This small child reported to have landed at Alibeg Camp and was kidnapped and converted. His condition was not stated good.

[143] Swarn Singh Shaktiman, Kashmir Tay Sikh (Gurmukhi Script) P. 207.

[144] Raja Harbans Singh's kin Jaswant Kaur was later married to S. Mahinder Singh Jolly in Srinagar.

to Jhangad for safety, was attacked enroute. Among others, these were also killed by the raiders: Sardar Singh, Secretary Guru Singh Sabha Mirpur, Sohan Singh Manager Gurdwara and his brother Joginder Singh as well as Makhan Singh, Gurmukh Singh and Muna Lal, Sessions Judge. A group from the caravan, consisting of Santokh Singh Gandokh and his wife Lakshmi Devi, their two minor sons Jaswant Singh Gandhok and Jagjit Singh Gandhok and their minor daughter Amrik Kour and many others, went to the Jungle to spend the night there, after walking the whole day. In the morning of 26th November, 1947, the raiders reached there and attacked them. They were not allowed to flee but made captives and forced to walk alongwith towards Gurdwara Alibeg. They all were then locked up in a room for the night, hungry and thirsty, numbering about 70, male, female and children, not finding even place to lie down.

The caravan was swelling with other captives but there were enroute killings also. While all of them were proceeding towards Alibeg Gurdwara, a small boy Jagjit Singh Gandhok. saw something miraculous which he terms as God's appearance (Parmatma ka Darshan ho gaya). According to him, a Hindu with pleasing appearance, dressed in white, was shot at. He saw "Sudharshan Chakra" appeared forthwith and hovered around his head for a couple of minutes. The moment "Sudharshan Chakra" disappeared, the victim fell down and died. He appeared to be a pious soul, says Gandhok, a retired Civil Engineer in Jammu.

Next day also they remained starved and walking. On the evening of 27th November, 1947, others also were captured in the route, raising a new caravan of about 1,000 persons. A gangester attacked Santokh Singh with axe and all his family members covered him by throwing themselves on him. He again tried to strike to kill him as he survived the first attack receiving simple head injury. "No Sikh is to be spared," shouted the assailant. But he was not allowed to kill him. His relations well covered him and requested the assailant to kill them but not him. Santokh Singh Gandokh (43 years) was, then let to survive and go that time, but was later killed in Alibeg Camp along with his one son, Jaswant Singh (16 years).

Walking full night, they reached Alibeg Gurdwara Complex next day on November 28, 1947 at about 3 P.M. without getting even a drop of water. It was not end of their tail of torture and anguish but only a phase of their painful survival to be followed by another phase, no less tormenting, harassing and breath taking. They were swinging between life and death. In this huge Gurdwara Complex, about 5000 captives were interned by Pakistanis, to starve them further, contract disease and infection and to die, if they did not die, then to take them out in batches and groups, to kill them by sword or bullet shot or to drown them into Mangla Canal with

hands tied back. Thus thinning the number of the inmates every day, and filling the space with new captives.

The surviving sufferers termed it as "make shift jail" which it was not. It was a transitory torture camp, a camp for a brief agonised stay before they were taken to butchery, more traumatic and dreadful than the Nazi Gas Chambers were. Therefore, some raise a question: Was Alibeg Gurdwara Camp, a Relief camp or a Concentration Camp to kill them callously at ease and with sport? It is a death of humanity that Pakistan brought to Jammu and Kashmir and she is still pursuing it there with impunity. Some of the affected person say: It was a Camp worse than Nazi concentration Camps in Germany. They ask, if the War Heroes of Germany and Organisers of Concentration Camps in Germany were not spared and put to trial then punished and guillotined, how is it that these criminals and killers of Humanity in Pakistan and Pakistan occupied Kashmir have not been touched so far and allowed unhindered, to pursue such a policy even now and go scot free even today? Is this going towards destruction of peace and humanity by inviting lethal war? Or is it avoiding and averting the destruction of War and maintaining the peace at the cost of life and living? Let the world communities throw the light on it.

Sikhs were not to be spared under any circumstance.[145] He was a special catch and target by raiders and other Pakistanis.

> "......*the unluckiest of the unlucky caravan of innocent men, women and children was herded into the huge Gurdwara Complex of Alibeg which had been converted into a sort of make shift jail. Gurdwara building was already jampacked with huge catch of our fellow citizens of and around Mirpur city. The atmosphere inside was choked with badly wounded wailing or who had either lost their loving ones or who had been seperated from and their near and dear ones...... By rough estimates the inmates of this make shift jail must be around 3,000 or so......Children and even young and old could be heard crying for a loaf of bread or anything else to eat. Among the captives about a score of Dogra army personnel in their Khaki uniform were also brought in.*"[146]

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[145] In view of Pakistan's this total anti Sikh attitude, the author is told, that many Sikhs burnt their hairs with match sticks in hiding and in transition and some of them suffered serious burn injuries.

[146] Jagjit Singh Gandhok, write up in Mirpur Sikh Foundation of India News Letter, April 1999. He is personally affected person hailing from Village Hill and was captive in Gurdwara Alibeg along with his home people. His father S.Santokh Singh and elder brother, Jaswant Singh were killed there as a result of this shock, his mother also named Lakshmi Devi tried twice to commit suicide by jumping into the Gurdware Well but was taken out from the Well alive both the times. She finally reached Jammu along with her minor children Jagjit Singh Gandhok – son and Amrik Kour, daughter.

Inmates had not to face only this horror and hunger in this sacred place of benevolent God, the Gurdwara, but also the naked invisible dance of death, After the night fall the inmates were trying to get shelter and the command of Pakistan army added to their trauma. A victim's victimised son Jagjit Singh Gandhok further reveals:

"……some Pakistan army personnel were seen segregating all Sikhs from rest of the people. They were all huddled in a community bathing shed……This doubtful and discriminatory action on the part of captors sent a shock wave……By now……all the Sikh members were ordered to come out in open ……There were cries and shirks from the rest but who would listen to them. Within moments the killers had made all of them about 30 in number including my father and elder brother to stand in que……they did not tell us as to where they were being taken and what for. Instead, the crying women and children were beaten, thrashed and dragged up to the main deori beyond which no one else was to go……Thus that was the first batch of civilian imprisoned persons who went to the altar of freedom to pay the price".[147]

This routine was followed with all the captives in the Gurdwara by batches and groups. Next day a mixed group of Hindus/Sikhs was taken out from the Gurdwara. They included some known respected persons like Sanskrit Scholar, Ganpati, Head Granthi Rann Singh and Mela Ram. One Moulvi with the help of other Pakistanis was killing these non-Muslim camp people. According to a captive of Alibeg Gurdwara Camp, Darshan Kumar S/o Nanad Lal Bakshi, Pakistanis took out from the Gurdwara camp on one night 150 persons and killed them all, said this eye witness and added that next day more persons in number were taken out for killing. Their hands were tied behind and killed by throwing them into Mangla Canal, this saved witness said. One Krishan Lal Bali was also thrown into the Canal, but somehow he was able to untie his hands and escaped undrowned. He then cleverly made contact with International Red Cross people and brought them to Alibeg Gurdwara camp.[148]

Before leaving Mirpur in November the non-Muslim population of this town had reached 35,000 due to influx of Hindu refugees from Pakistan, according to one Om Prakash Gupta.[149] He had

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[147] Jagjit Singh Gandhok, in Mirpur Sikh Foundation of India News Letter, April 1999.

[148] Jagjit Singh's Gandhok's statement.

[149] Kashur Samachar (Hindi Section), December, 1999. Om Prakash Gupta, himself a refugee from Mirpur, had miraculously survived and had to become after all a Muslim to cross over to India alive. An important eye witness to the brutal murder of humanity, Om Prakash Gupta,s narration of tragic events have been reduced to writing

also left with one of the Carvans. On the day of fleeing the town in search of safety and refuge, he said that *"Pakistani army, rogues of Muslim League and Tribesmen had fitted Bren guns"* there and they killed numberless Hindu/Sikh inhabitants running away from the town. After a long travail, only 2000 persons reached India alive finally.

The caravan of harassed and agonised people was proceeding to unknown destination, hungry and thirsty.

"On reaching Dharmashalla many left in between were killed dastardly. Some parents killed their children themselves by shooting them dead; others killed their children by throwing them down the Hill. Women were requesting their parents or husbands to kill them. Many of them took poison and ended their lives."[150]

When the Carvan reached Mountainous passage, Gupta and others stormed a well found there to quench thirst and to fill up the hungry stomach. Enroute to village Kasguma, many ailing, aged and little children got stranded and along with them, their kith and kin got held up at different places only to get killed by Pakistanis. *"The women and girls were lifted out, their ornaments snatched and some of these dead bodies were raped."*[151]

On 26th November, they reached Kasguman and were captured. They all were placed there in the Camp and next day on 27th November, 1947 they were produced before the camp Incharge Raja Murawat Khan younger brother of Raja Afzal Khan, reportedly Ex. Minister of the Maharaja. The prisoners were asked to hand over every thing to Murawat Khan. So they did.

"In the darkness of following winter morning at 4AM, many children from 7 years and above were taken out from Kasguman Camp allegedly for sending them to India. At 6AM after some visibility was there, we came to learn that 50 persons were callously murdered."[152]

How heinous crime it is to be a Hindu/Sikh before Pakistan Government that even the Refugee Camps are converted into some thing more horrible and aweful than the Gas Chamber! The camp occupants were starving all these days and nights and feeling unconscious. They were then asked: *"Kafiro! We have prepared Beef curry of your dear mother Cow,. you can eat."*[153] The helpless inmates eat that. The capitors thought

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by Anil Bharti and published in an article of three series titled, "Jab May Ahamed-ud-Din Bana Tha". Om Prakash Gupta was later married in Jammu with the daughter of Dr Mukand Lal Jain on 20th January, 1952. He has settled in business at Bhawanipur, Calcutta.

[150] Om Prakash Gupta Kashur Samachar. December, 1999.

[151] Ibid

[152] Ibid.

[153] Ibid.

they would except Islam after eating the curry which they did not so their travails continued unended.

Next day the captors stormed the women side of this *"Camp and forcible and picked up many ladies and young girls among hue and cry from their kith and kin. The victims also begged of them, entreated and wept bitterly praying to take mercy upon them and spare them. But who was to listen to them not even God"!*[154]

In the long series of tragedies, many more heart rending gory acts followed but the perpetrators instead of hanging of their heads in shame seemingly feel glorifying humanity. It is fair the world to determine as to weather it glorifies, what and whom or it is both, disgraceful and shameful for the humanity.

> *"Nine year boys and other males were jointly taken to the rooms on the side of ditches and locked them up there. Shortly after they were taken out in sets of two persons and killed by axes and thrown into the ditches. these included my two young colleagues and refugees from Lala Moosa district Gujrat (Pakistan) who had come to Mirpur because of it being a Hindu Maharaja's State. They begged to leave them but were not. Then they requested the sinners to shoot them out which also was not conceded to then they were made pieces by the Axe alongwith other 111 persons ……… Afterwards their little sisters were kidnapped."*[155]

At Kasguman Village, one Lal Khan a sepoy of Baluch Regiment, saw Om Prakash Gupta, his classmate. He wanted to save him and send him to India. He, therefore, persuaded Gupta to become a Musalman which he agreed to. He was taken to some other Village and got converted to Islam and was named as Ahamed-ud-Din on December 3, 1947. After 17 days confinement at Kasguma Camp the aged and many others were sent to Alibeg Camp. Among them were Ahamed-ud-Din's father and some other relations. With the help of Lal Khan, Ahamed-ud-Din (Om Prakash Gupta) reached Village Dandiwassa in Gujrat District near Indian border.

> *"Many kidnaped and captured women were auctioned at Peshawar for Rs 600 to Rs 5000- per women: Therefrom, they were sold to other countries through Afghanistan and also auctioned in Saudi Arabia also"*[156]

In Kasguma Village, one Bimla was kidnapped by a soldier of Baluch Regiment of Pakistan. One day she got her kidnappers

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[154] Om Prakash Gupta Kashur Samachar.January 2000
[155] Ibid
[156] Ibid.

gun in his absence and shoot her head, killing herself instantaneously. After the soldier returned to his house he became furious on the act of Bimla and shouted, "*This Kafiran has deceived me.*"[157]

He then brought "*his Axe and made pieces of her body and threw them out*"[158]

At Alibeg Camp with the help of Pakistan Army, as was the case elsewhere also, not only the brutal murder of capitives continued to take place but something more also was happening to the camp occupants. They were developing pain and contracting diseases due to poisonous food given to them:

> "*I learnt at Dandiwassa Village that many inmates had been slaughtered at Alibeg Camp and the survivors condition was bad. With their flour, Chuna, Neela Thotta and pieces of glass were mixed by the Custodians of the camp. Consequently 15/20 persons were dying by disease, cold and starvation...... I reached Alibeg and met my father who could not be placed by me. He however refused to accompany me for having converted to Islam. I explained him the strategy to save our selves and left the camp with him and niece, who were converted to Islam in another Village*"[159]

They finally succeeded and reached India. In the wake of Aggression by Pakistan, the State women in particular, became victims of brutal Killings and other gory acts. While celebrating the "Women's Day", the UNO must consider the need and desirability for highlighting the tragedies of the State women also and including her in this particular Day for women. The Central and State Government also must consider this aspect of the women in the State, suffered or suffering.

The Red Cross people asked Pakistanis to stop killing of non-Muslims which they did not agree. But they threatened counter action and then they stopped killing of Hindus/ Sikhs in that Camp. This Camp was closed in April, 1948. Children were generally spared but whenever killed in the Caravan or elsewhere, were done to death by thrusting a Spear in their bodies. This practice continued for some days more and when International Red Cross reached there and saved the other inmates of the Gurdwara awaiting death. On refusal to stop killing by Pakistanis, they threatened with retaliation and taking severe action against them. They prepared the list of survivors and evacuated them to safer Camps in India.

The sense of humanity was not, however, totally dead among the people even in this gory atmosphere. A Muslim gentleman

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[157] Ibid. Om Prakash Gupta Kashur Samachar.January 2000
[158] Ibid.
[159] Ibid.

provided a brilliant example of it by taking all risks in saving an attacked Hindu. One day a group of Hindus taken in routine manner from the Gurdwara to Mangla Canal for killing/ drowning included Master Harbans Lal of Dadiyal. The hands of all the victims as usual were being fastened with their back at the bridge before pushing them in the Canal to drown and die. It was usually done in the darkness of the night. Before the turn of Master Harbans Lal came for hands fastening, he jumped into the Canal from a parapet on the bridge. "Pakro Pakro, Kafir gaya Kafir gaya" was the cry killers raised but the "Kafir" (infidel) was not traceable.

Early in the morning, a Muslim gentleman found him across the Canal Bank in a semi unconscious condition, shuddering with cold and horror. The gentleman pitied his lot, took him secretly to his home, changed his clothes and treated him there. A few other Muslims reached his house in search of this "Kafir" and enquired if a "Kafir" was hiding there. The gentleman boldly denied presence of any "Kafir" there. They went back. He had this strength for a righteous cause of humanity, in the name of "Allah". After some days, the Muslim gentleman took him to his nearest Railway Station, Sarai Alamgir in Jehlum District of Pakistan and accompanied him to Lahore. He bore all the expenses and personally handed over Master Harbans Lal to the International Red Cross Society, ensured his safety and returned to his home in District Jehlum. Master Harbans lal finally settled in Jammu and retired from the State Education Service as TEO. He has passed away in Jammu about 15 years back. His eldest son Ashok Kumar is a retired Civil Engineer and other sons are in the business. Apart from group killings outside, about 500 persons died of starvation, disease and cold inside the Gurdwara Camp.

After siege and fall of Mirpur on 10th Maghar 2004B (corresponding to 25th November, 1947), a very large number of non-Muslims were massacred. Many others fell victim of self killings and the surviving rest underwent long term miseries, anguish, and tortuous but unforgettable remembrance of the crucial days and the pain of unhealing wounds. This is true not about Mirpur District only but about everywhere and elsewhere in the State affected by Pakistan's raid and naked aggression. It is equally true about District Muzaffarabad, about Poonch Jagir, Rajouri, District Baramulla (old) and (new), District Badgam (Kashmir Valley) and many other places. In Poonch Sector and in Muzaffarabad this trauma was witnessed and experienced by such people earlier. What a cruel outcome of Pakistan Governments aggression on Kashmir alongwith the actions of Muslim fundamentalists and effect thereof on the innocent non-Muslims!

There is no such type of instance in the Maharaja's whole State of Jammu and Kashmir and during his administration where any Hindu Chaunist could have followed such a harsh and dastard attitude

and approach compelling Muslim ladies and Muslim males, to feel necessity of committing self killings like this. It was neither prior to the partition of India, nor on or after partition, nor even after the Indian army arrived in the State in consequence of the State's Accession to India. Some of the affected persons ask Pakistan in particular and the world nations in general as to what right had Pakistan to convert a religious sacred place in the State like Alibeg Gurdwara, into a human slaughter house and to desecrate it so beastly?

With the infiltration of raiders from Pakistan, this overwhelming Hindu majority town, also was terrorised as borne out by these pages. The same tale of killings, molestation and abductions are noticed.

"A few Hindu ladies committed suicide by jumping into wells. Probably one or two dead bodies were later recovered from a well situated in the vicinity of the District Court. A number of women were abducted. The scene of the District Court where four to five thousand non- Muslims had gathered, must have been pathetic." [160]

The condition of Mirpur Town and suburbs became so appalling and the Hindu/ Sikh majority so distressed and depressed that they started looking for safe exit. Some of them from this town joined many others at Alibaig Gurdwara Refugee Camp. In this Camp *"were some Hindus from Mirpur, notably, Lala Sita Ram, Advocate. During my practice at the Bar of Mirpur, I heard a lot of praise not only about his professional ability but also about his non- communal outlook.*

It was very sad that he was killed in the Camp by unruly elements... His daughter Lalita Rani, the only child, was abducted by a tailor! Such are the horrors of wars. Efforts made by Khan Abdul Hameed Khan, the District Magistrate, to trace her resulted in failure as she had been secretly removed to Jacobabad. In 1960 she came to see me in connection with the compensation of her father's house, which had since been allotted to refugees. She had several children... In another case, a matriculate married woman, Ram Piyari, was abducted by a semi- literate Muslim water carrier by caste." [161]

The above instances have deliberately been reproduced here from the book of a responsible Kashmiri Muslim author of Baramulla (Kashmir) and former Chief Justice of Pakistan occupied "Azad Kashmir". It is just to indicate the height of excesses done, the manner of torture committed and the forcible method of conversion imposed upon the non- Muslims by Pakistan, her raiders and the Muslim fundamentalists. Who knows Lalita Rani's (her Muslim name not known) and Ram Piyari's

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[160] Justice Mohd Yousuf Saraf – Kasmiris Fight. P 961.
[161] Ibid. P 957.

(Muslim name not known) offshoots and descendants, may also be fighting in Kashmir as Islamic "Jehadis" to eliminate non-Muslim minority there, without knowing or realising that they themselves are the product of trauma and agony as well as victims of Muslim fanaticism that entailed unwilling, forcible and terrorised conversion of one of their parents. Does Pakistan boast of such "Jehadis" and claim support to such "Freedom Fighters" for such a "Struggle". Let the Pakistan Government and the Government of so called "Azad Kashmir", show a single place in whole of occupied area of Kashmir, where even a single Hindu/Sikh family has survived and inhabits.

Why it happens when such Pakistani raiders, infiltrators, fundamentalists and Jehadis appear in their true colours, the Hindu\Sikh\Budhist ladies and girls have to jump into the wells, drown themselves in the rivers and take poison to kill themselves. But for their sake, even some of their men also have to go the same way. This dreadful approach and trend is likely to prove dangerous for the world one day, and is bound to shatter the world peace. If war is to be avoided, and peace and human brotherhood is to be restored and maintained, the world community has to come out and lend hope and succour to the humanity in future. The intellectuals, journalists, authors and politicians in the world in general and of India and Pakistan in particular, will have to ponder over it jointly and seriously, to thwart, forestall and crush such trends, attitudes, actions and approaches in any shape, form or manner.

Mirpur has given two judges to the Supreme Court of India, Justice Jaswant Singh and Justice R. P. Sethi, both of them hail from Mirpur as displaced persons of 1947. In the wake of Pakistani infiltration and raid, they have lost their home there. Justice Jaswant Singh on his personal experience about the raid reveals his loss, suffering and agony as follows:

> *"Unfortunately, before the ink on the Standstill Agreement, which he (the Maharaja) had entered into with Pakistan, could dry up, the tribal raiders, aided and abetted by Pakistan, and armed with highly sophisticated weapons, arms and ammunition, suddenly launched a full scale attack on the Dominion of the Maharaja making the prosperous and affluent towns of the districts of Mirpur and Muzaffarabad as their main targets.*
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> *It is with deep sense of anguish that the author is impelled to mention that in the assault on Mirpur which teemed with wealth and prosperity and the population whereof had swelled from about 12,000 to 20,000 ...the author's revered parents, his highly educated two young sisters, his promising younger brother who was in the final year of M. B. B. S class of the Medical College, Amritsar,*

his bright brother- in-law (sister's husband), the only son of State's legal remembrancer, who was Public Prosecutor at Mirpur and other kith and kin were brutally killed on October 26, 1947. The massacre of his kith and Kin and the stupendous loss suffered by the author completely bewildered him and, rendered him, a destitute orphan."[162]

What a sad and shameful it is that Pakistan and her raiders on the one hand grab the territory of India in the State and on the other, massacres the non- Muslim inhabitants brutally and then convert the remnant hiding lot into Islam. This line of thinking and action, may engulf the whole world one day and bring it to the point of destruction and disaster. Those champions in the world, who have been shielding or conniving at such diabolical designs and performances, act as abettors and are so are equally guilty for this crime against humanity. Aggression against India in the State of Jammu & Kashmir has not been vacated by Pakistan and so, the violation and commission of offence is continuing. India is single handedly striving for peace boldly and at the cost of sufferance. Pakistan and her allies constantly defy peace and act as a warmonger. How long this contrasting and contradicting position will or can last? It is the result of this indifferent attitude adopted by the Powers of the world that the aggression is still sustained by Pakistan brazen faceldy.

The non-Muslims from Mirpur, sustain an unmitigated shock for forcible occupation of their home district by Pakistan forcibly and illegally and their ouster from their homes consequently, they celebrate a Remembrance Day in Jammu every year on 25th November. Their, this annual feature seems to have now become a permanent annual event, handed down from generation to generation. The plight of the Hindu/Sikhs in Pakistan at the eve of and in post partition, was heart rending. On their fleeing West Punjab and entering the parts of the State to seek protection on humanitarian grounds and under the Maharaja's Government, least they knew that they would be attacked and massacred by the Jehadis and the fundamentalists there also. More so, the matter of high consideration and grave concern was the follow up action pursued by these anti Human Rights' forces of their own native places, who attacked them even at the places they stayed in thir State as refugees. How shameful it is?

In Bhimber, a Hindu dominated town for instance, Hindu refugees from adjoining places of Gujrat (Pakistan) came in large number to take shelter there: But a group of volunteers from Gujrat under

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[162] Justice Jaswant Singh (Retd), Jammu & Kashmir- Political and Constitutional Development. PP. 31-32. Justice Jaswant Singh hailed from Mirpur was Chief Justice of Jammu and Kashmir before he was elevated to the Bench of Supreme Court of India. His son, Justice Anil Dev Singh is now Chief Justice of Rajisthan High Court. Justice S.K. Gupta of Jammu and Kashmir High Court also hails from Mirpur.

the leadership of Khan Mulk and Tora Khan pursued to attack them even in this State. The population of Bhimber was over 5000 Hindus with hardly a hundred families of Muslims. The Hindu population had increased by refugees. This ratio of population notwithstanding, it was attacked by Pakistan raiders, fundamentalists and Jehadis and massacred a sizeable number of Hindus. Under these circumstances what happened is quoted below:

> *"It was in this atmosphere that a group of volunteers gathered by Mr. Khan Mulk of Gujrat, attacked Manawar which, together with Vatala, was inhabited mostly by the Dogras. The attack was repulsed and among the dead, was Tora Khan, a Police Sub-Inspector, from Gujrat who had, on his own and unmindful of consequences, joined the volunteers".*[163]

Like some other towns and places of the State, over run later by Pakistani raiders and Islamic Jehadias, the same tale of self killings etc, was, however, repeated in Bhimber as well:

> *"A number of Hindus, including women, committed suicide, either by taking poison or jumping into wells, the most prominent among them was Ajodhia Nath, Pleader, and his daughters... with Bhimber in the hands of the liberators and fighting in the Mirpur Tehsil, having ended, further plans had to be made for an advance towards Naushahra..."*[164]

This introduced the situation, yet another and having novel element of following the persecuted, threatened and ousted non- Muslims from their native places in Pakistan, to the town in the State they sought asylum in, so that to attack and kill them. This type of attack also was mounted on Mirpur.

Col Habib-ur-Rehman of the INA fame, who was ADC to Subash Chandra Bose, belonged to Tehsil Bhimber. He also did not lag behind in organising the volunteers to mount attacks on innocent non-Muslims. He was later appointed Chief of staff of Azad Kashmir Forces, though for a short period.

After fall of Mirpur to Pakistan, Dev Batala, a strong belt of Chib and other Dogra Rajputs, had fall and they were massacred indiscriminately by the Pakistani infiltrators and raiders. Maharaja Hari Singh is stated to have wept on that day bitterly. These Dogra Rajputs are the toughest and the valorous fighters as a community. These inhabitants of the area, resisted Pakistani attacks firmly to the last, almost with empty hands. Defending they perished for want of arms and ammunition, and no reinforcement was sent to them by the Government of

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[163] Mohamad Yousuf Saraf, Kashmiri's Fight- Vol. II P. 965.
[164] Ibid. P. 966.

India. Seeing this depressed position of losing many strong holds and areas of the State which might not have been, if provided some army support, Maharaja Hari Singh virtually rose to revolt against the Central Government. He, therefore, wrote a strong protest letter to the Government of India. Dogra Rulers had full faith and genuinely so, in the fighting skill, boldness and loyalty of the Dogra Rajputs. When in 1947, Maharaja Hari Singh found inadequacy of his Armed Forces, to meet the exigency of situation created by Pakistan, he ordered to recruit Muslim Rajputs immediately to cope up with the situation. After Hindu Dogra Rajputs, the Maharaja had faith and trust in the fighting capacity of and dependability on the Muslim Rajputs, being the converted ones. The time was fleeing and it seemed too late to avail of it. Due to lapse of former British Chief of the Army Staff, Maj. General Scott, there was not sufficient and requisite quality and quantity of arms and ammunition available with the Government. The Pakistani infiltrators and raiders in co-operation with local Muslim fundamentalists, therefore, made easy advances. The changing loyalty of the State Muslim Army was also an important factor, contributing to it.

Sakhi Delair, after capturing Azad Pattan, captured the fort at Ain, a few miles upward on the Jehlum. The State troops here comprised Muslims as well as Gorkhas. Among them was a Subedar from Panjiri, Mohamad Akbar who was largely instrumental in its capture. Col. Abdul Majid and Cap. Rehmat Ullah were posted at Sehnsa and being sympathetic, voluntarily withdraw to Throchi fort where they were contacted by Col. Mehmood and without giving him a fight, withdrew further to Saria. Brigadier Chittar Singh was in over all command on the Saria- Jhangar front…when the Gorkhas were attacked, Muslim elements of the State Army joined hand against Gorkhas. The Gorkhas, who were almost entirely wiped out, killed Naik Ali Akbar from Kotli and four or five other Muslim members of their own force. While Rehmat Ullah went to Khouiratta, Col. Mehmood and Sakhi Delair went to Kotli which was defended by a strong force personally led by Col. Baldev Singh, a close relative of the Maharaja"[165]

Kotli, a Hindu majority town, resisted several attacks and did not yield.[166] It was made to surrender finally by the

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[165] Mohamad.Yousuf. Saraf, Kashmiri's Fight, Vol. II. P. 979

[166] Sh. Jitendar Khana, former Socialist activist of Jammu, hails from Kotli. He has told this author that a Dogra Captain from Jammu valiantly fought and defended this Hindu town upto last. But one day he told the residents to vacate the town and save themselves as the instructions received from the Central Government, were to surrender the town. Beyond this, he could not tell them anything as he was himself puzzled and shocked to vacate the town after having undergone so much sacrifices. The author feels perhaps their supply lines were and routes were to cut after Cease fire

Government of India in consequence of cease-fire. The Hindus of the area had to flee and vacate the town in a desperate condition, not knowing the reason for surrender by the Indian army after long resistance.

Pakistan captured Rajouri on November 10, 1947, a border town 151 Kms away from Jammu city. Apprehending severe armed attacks and seeing no chance of resistance, the Tehsildar of Rajouri, a Kashmiri Hindu, left the town alongwith the treasury in accompaniment of some officials and Police Security. The local inhabitants, particularly non-Muslims, were left as in some other cases, unprotected and uncared for. Again the same, or similar story *"that some Hindus were killed and a number of their women and children."*[167] Kidnapped raped and self killings by some was repeated in Rajouri also.

Communal tension augmented in the town and non- Muslims became targets of the vulgar attacks. Harassed people from the countryside also rushed to the town of Rajouri in the hope to get some protection. It is stated some Pakistani fanatics and fundamentalists played a cruel trick. They asked the Hindus to assemble in a big building in the town for the sake of protection. Many Hindus, male, female and children rushed there and the whole premises got over crowded and filled within no time. The entire premises was closed and then set on fire, burning alive, one and all, screaming, weeping and crying. But there was no man, no God to hear their cries and to rush to their help. This introduced another device in killing by Pakistan, of the Hindus of all age groups of both the sex, and that too in a bulk. About 20,000 non-Muslims are stated to have been massacred in Rajouri area during Pakistan raid there. A large number of ladies made self killing by taking poison.

> *"Diwali used to be spent in Rajouri every year as black day. It was on the Diwali night in 1947 that thousands of ladies took poison and died as if that was nectar. They did it to save themselves from molestation at the hands of enemy. Hundreds of children and young ladies were done to death by their relatives……A camp of local people at Gowdhan was unfortunately under the Command of Pakistani Major Aslam. He saved many women, but also killed some even on the day of retreat to Pakistan and also took some to Pakistan alongwith……Rajouri could not be saved in 1947 and this historical city remained under their control for months, Indian forces, however, got it liberated from*

Line. As such, India might have given up Kotli and some other areas which he believes was not good.

[167] Mohamad.Yousuf. Saraf, Kashmiri's Fight, Vol. II. P.1012.

Pakistan on the day of Baisakhi in 1948, as such, this day is now celebrated every year as Rajouri Day".[168]

Every conceivable device in dastard killing of the Hindus/Sikhs and Budhists (wherever present) was employed by Pakistan who initiated, abetted and supported Jehadis for wiping out Hindus tortuously and to grab and annex forcibly the territory of India in the State of Jammu & Kashmir, with Pakistan.

On or around 13th April 1948 Rajouri was liberated by the Indian forces. They pushed out Pakistani raiders and as well cleared it of Pakistani army by fighting fierce battles there. With the victory of India, law and order was restored not only in the Rajouri town but in some other area also connected with it.

In Poonch area also, the loyal people had to suffer badly. The instances of massacre and compulsive conversions to Islam is not unknown there. Indian Army, however, cleared Poonch city from control of Pakistani Army and recaptured it and some other areas of Poonch. The State Government re- established its administrative control over it. But a large area of Poonch Jagir is still in the occupation of Pakistan which forms so called Azad Kashmir. Bgrigadier Pritam Singh of Indian Army is regarded as "hero of Poonch" who did not allow Pakistan to stabilise her hold on Ponch city and got it back.

Due to Pakistan's invasion and policy, communal tension and non muslim killings took place in Poonch Jagir also. A violent Muslim demonstration was going on near Bose Galla, Tehsil Palandhari. Jagat Ram, Inspector of schools of Village Phagwati (now in Pakistan)had been invested with Magisterial Powers in September, 1947. He ordered the Military Group there to fire. But the army did not, on the plea that the number of casualty would be high. The army suggested to the Magistrate that they would go there to advise them not to indulge in violence. Jagat Ram preferred to go there himself to tell them to remain peaceful. Jagdish Lal Shastri, a teacher, accompanied him. Both of them were ruthlessly killed by the leaders of the mob mercilessly.

Lakshmi chand, Girdawar, an influential person of his Village Hajira (now in Pakistan) was complained by the army that from his house, some body was apprising the Pakistan army on the opposite hill of strategy, planning and everything about his side. Lakshmi Chand denied it but his brother suspected his Muslim servant, which the former was not prepared even to listen. One day, this servant was caught red handed while

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[168] Om Prakash Sabharwal, write up in Awaz-e-Jammu, April 14, 1995.He is a former Member of Rajouri District Development Board, Rajouri

communicating with Pak army and the Hindus were evacuating the Village. The furious army man and the brother of Lashshmi Chand tried to kill the servant but his master did not allow them even to touch him. Before leaving the Village, Lakshmi Chand ensured safety of his servant and got him to cross over the other side safely under the escort of SHO. He left the Village thereafter. But irony of his fate was that he was killed by Pakistan army at Kakuta Village.

In Kakuta Village, a large number of Hindus/Sikhs from some places of Poonch assembled in search of a safe destiny. Many of the males were carrying their own guns alongwith, for self protection. Muslims assured them protection and safe passage provided they surrendered their guns to them. The non-Muslims in transit trusted them and they handed over their guns to them. The pro-Pak elements repeated the same story of protection to the other Hindus reaching there by batches and groups enroute to their unknown destiny. By this method they collected about 500 guns from non–Muslims there only to liquidate or subjugate all such Hindu/Sikhs and to fight out the loyal assaulting army. Many of the surrendered people were assembled in a big house and then closed it. They were betrayed. The house was torched and they were burnt down and killed.[169] The persons responsible for it, were watching and relishing it outside the house.

In Poonch Jagir also, there has been, obviously, disturbances of communal peace and amity. In so called "Azad Kashmir", there is a good number of Hindu converts who are now living there as Muslims. Many casualties have taken place there. But there was not the kind of bloodshed the other places like Mirpur, Rajouri, Muzaffarabad etc, witnessed. There has also been a total genocide of non-Muslims in Gilgit and other northern areas of Kashmir. One of the main reasons for comparatively lesser blood bath in Poonch area is the immediate mass conversion of non-Muslims to Islam by the local Muslims. Mahinder Pyassa, a lawyer in Poonch city was somehow saved in his home place but some of his relations were brutally killed in his village and others converted to Islam. A Muslim Petition Writer of Palandari, in order to save the local Hindus, told the Pakistani raiders, for instance, that there were no "Kafirs" but all the Muslims. It checked the non- Muslim killings on large scale. Such converted Hindus/Sikhs to Islam in face of threat of killing are now living there as Muslims. A tragedy of politics in the former sub-continent, it is! Ghulam Qadir Banday of Poonch refused to go to Azad Kashmir Pakistan with raiders who took him there as prisoner. He came back to India in

[169] Mr. Gauri Shankar Sharma hailing from an affected area of Poonch (now in Pakistan), told this author: A young weeping mother was desperately trying to save her tender son in her lap from the increasing heat of the fire. She was standing in different postures to protect her child. Some times she would move it to left of the hip and other times, to the right. Seeing her struggle, one Muslim spectator told others: "This woman has more love for her child than for herself. She should be brought out. She was then set atliberty. But what her fate later was, is not Known.

exchange of prisoners. Brigadier Usman is the "Hero of Nawshera" who defended this town and the area in 1947, even at the cost of his life. Rest of the State area is there in the occupation of Pakistan which forms part of so called "Azad Kashmir".

In Doda District a little disturbance had occurred without the raiders reaching there in 1947. But due to fall out of partition and Pakistan's raid on some other parts of the State some disturbances were witnessed there. A group of Muslims from Himachal Pradesh entered into this district from Bhadarwah/Kishtawar side. The person who was leading the group members had put on bottomless steel bucket for protection. Their entry created some communal tension in the area. The bucketman was shot dead by one Wazir and the group dispersed and reportedly settled in Doda and Udhampur districts. Later, Bhadarwah and around areas developed tension with Pakistans intensification of full-fledged aggression of the State on war footing through her regular army and causing large scale carnage of non-Muslims.

One Kanpati Baba sensed danger in Bhadarwah due to intensified aggression by Pakistan. He advised local Hindus to be vigilant, against manoeuvrings of Pakistan. Muslims were annoyed on his advice, encircled the house of one Changoo Shah, where Kanpati Baba was residing. The Muslim mob set this house on fire on 21st November, 1947. Kanpati Baba[170] had managed to escape from the house. A severe reaction ensued from the Hindus. Attacks and counter attacks occurred in and around Bhadarwah. Some casualties took place on either side and also loss of huge property.

Sheikh Abdul Rehman,[171] was thrown injured on the road to die. A young boy then, Sheikh still bears the scars of wound cuts on his hands. One Shanti Devi also was severely injured and thrown on the road as deemed dead. However, she survived and is still living. She also still bears scars of the injuries inflicted on her body.

The basic human urge for peace and brotherhood had not vanished there also. Shanti Devi's youngest brother was saved by one Abdul Gaffar, who kept the injured and frightened child for the night at his house. In the early morning Gaffara took the child for his protection and placed him near the Fort so that the child could get attention of Hindus residing there to save him. He is still alive.

The State Government sent a contingent of National Militia from Srinagar under the command of Kashmiri Hindu Officers, to both the areas Bhadarwah and Kishtwar, for restoring and maintaining the peace. In Kishtwar area, there was by and large peace

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170 Mr.V.B.Gupta (Advocate) hailing from Bhadarwah, says that Kanpati Baba was saved. According to him, he was a warrior Saint and his name was Baba Ganga Das.

171 Sheikh Abdul Rehman is a former Member Parliament (Rajya Sabha) and Ex. M.L.A.

excepting a few incidents in some remote places. Although the Commanding officers did their duty with utmost sincerity and honesty, yet the people also were willing to maintain the peace.[172]

Jammu city and its suburbs had witnessed acute communal tension as a reaction to the carnage of non-Muslims taking place in other areas of Jammu regions due to Pakistani raid and some Muslim casualties also occurred. A big holocaust[173] was apprehended but averted. In some Villages like Ghagwal, Nonath etc Tehsil- Hiranagar due to Pakistan army's firing in November/December 1947, Ayodhya Ram, farmer and other one or two Hindus were killed. Raiders/Intruders plundered Hindu Houses and also three Hindu ladies were abducted and taken to Pakistan.[174]



Some Kashmiri Pandits of Village Guglosa Tehsil Handawara (Kashmir) in Muslim dress after Pakistani raid in 1947 when they were converted to Islam with many other Hindus of the area. After repulsing the raiders from district Baramulla, they were brought to Srinagar Camp where this photograph was taken.

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[172] Mr. B.B.Kotwal (Advocate) also hailing from Bhadarwah area says that Mr. Swami Raj Kotwal and Mr.Ghulam Rasool Malik were two pillars of Hindu Muslim unity in Bhadarwah. According to him, they had contributed much to Hindu Muslim harmony during those days and confirmed the human action of Gaffara

[173] Mr.D.K.Khajuria (Advocate) former President Bar Association, Jammu, says that a few Muslim casualties did occur in Jammu but not on big scale as could ordinarily be feared under the circumstances.

[174] Mr.Gopal Das Dogra (Retired BDO) belonging to Samba- Hiranagar belt, says that the ladies were later brought back to Jammu in exchange of some other persons who wished to go to Pakistan from Jammu area.

CHAPTER – VII

RAIDERS' VANDALISM IN THE VALLEY

After killing of Col. Naryan Singh and attack on Hindu army, there was consequent fall of business town of Muzaffarabad and Domel, Hatian Dopatta and Uri. The Pakistani raiders and her non-British army men made further advance towards Baramulla in the Kashmir Valley. In Baramulla town, the Pakistani raiders and infiltrators created havoc by looting cash and other movables making forcible entries into houses and setting the houses on fire on slightest provocations. For meeting any obstruction in their entries, they would kill persons at their sweet will, rape and abduct young women and girls and do what not. They did not spare even Nuns working in the Christian Missionary Saint Josph Hospital or the teachers of Saint Josph High School Baramulla. Pakistan supporter and well-wisher of her raiders, Justice Mohd. Yousuf Saraf termed them as liberators, says about his Muslim guests and crusaders when they in large numbers reached his original home town, is reproduced below:

"Unfortunately the enthusiasm with which the local Muslims had welcomed their entry into Baramulla was short lived. A sizeable number of tribesmen lost no time in turning against them and within hours, many a building were ablaze, entry was being forced in almost all pucca houses and its inmates were robbed on pain of death. It was a stunning blow to those who had welcomed them with open arms as liberators. Scores of houses on the left side of river Jehlum were burnt to ashes. The Assistant Mother Superior, three nuns of the St. Joseph's Hospital and a British couple staying there, were killed. Except for these, half a dozen Hindus and two Muslims, the killings remained confined to Sikhs. So far as Hindus are concerned, not more than six were killed in the town and only three, Shambhu Nath and Vedh Lal who lived in the neighbourhood of my house and Arjan Nath, all School teachers, were Kashmiri Pandits. There was generally no distinction between Hindus and Muslims in so far as loot and arson was concerned. For instance, a tribesman snatched away the blanket of Ghani, a poor weaver with four daughters. When asked whether this was the purpose, for which they had come to Kashmir, the victim was shot dead on the spot. The local Cinema hall was converted into a sort of a restricted brothel. The women of a prosperous Muslim had, like most other Muslim women, moved out of

the town, as a precautionary measure. Unfortunately, one of their daughters-in-law was still in the house, perhaps to look after it. A tribesman caught sight of her and asked her to accompany him to their camp. Displaying great presence of mind, she was all smiles and asked permission to wear new clothes and bring her jewellery and cash as well! This she was naturally allowed to do. While the tribesman lay waiting outside, she dashed into a large room which stocked grass for a dozen of their horses. Setting it on fire, she entrusted herself to the flames. Not only did she die herself but about two hundred houses in the Mohalla also got reduced to ashes.

One Rasul Joo Darzi, an oil mill owner, invited about two hundred tribesmen to dinner. But after the meals were over, the guests demanded women. Fortunately, woman had already been evacuated and there remained only a great grand mother who was shown to them as the only female inmate and it was with great difficulty that they left the house. An old widow, Nabad Ded, had a cow and its milk, was her only source of subsistence. She had a minor son. A group of tribesmen snatched away the cow and, despite her wailing and the entreaties of by standers, it was slaughtered, roasted and eaten just outside her house.

......Kashmiri Pandit women......wear a special golden ornament on their ears...the two pieces weigh, perhaps, about two to three tolas. In some cases, the tribesmen snatched them away in a most barbarous manner and did not give their victims' time or opportunity to take them off; Their ears got pierced and started bleeding profusely...One Khawaja Aziz Joo Kachru, a rich but noble man who was dead had constructed a four storey Palace......some tribesmen almost shattered its top two storeys although they were repeatedly told that it belonged to a Muslim. Their short answer was that such a house could not belong to a Muslim! They carried away not only cash, valuables, clothing but even Samavars and other utensils made of nickel. They thought it was gold......

"Naturally, these excesses caused wide spread indignation...the news of these incidents reached Srinagar...The Muslim youth who had so proudly attached themselves to various groups as guides began to desert them, partly out of hatred for the type of freedom they had ushered in but largely for fear of their own lives."[150]

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[150] Mohamad Yousuf Saraf, Kashmiris Fight For Freedom Vol. II PP. 906-8.A former Chief Justice of Azad Kashmir, Mr. Saraf is no more. He was a nat   of Baramula (Kashmir) and had shifted to Pakistan in 1947. He was assigned the task to write this book by Pakistan Government.

This long passage by an eminent Kashmiri from the Valley, who lived and passed away across the LoC for quite long a period. It has purposely been quoted almost in full and without comments to depict the picture inside the Gateway of Kashmir when the Pakistani armed raiders entered the town in large numbers. A Pakistani Muslim and a jurist compelled to write all this is as meaningful as it is significant. This introduces still another factor of killing, arson, loot, pilferage, rape and abduction of women and girls not of Hindu/Sikhs alone but of both Hindu and Muslim, of Kashmiris without any distinction and discrimination in 1947.

It reflects a very significant and remarkable change in the mood, behaviour and approach of the both, foreign raiders and the native defenceless people resenting and abhorring their conduct and behaviour. They, therefore, felt reluctant to support them. This invasion and lust for loot, plunder and arson, uncivilised approach and bent of mind displayed by the foreign invaders, ethnic discrimination observed, is deplorable. This showed as to how Pakistani attackers, aggressors and invaders look towards the non violent and peace loving Kashmiris. This foreign attack was also a cultural invasion against them. Pakistan not only put the nobility of Kashmiris culture, its trait of tolerance and human sympathy at stake but its open auction was made in the streets of Kashmir.

Prime Minister of India, Jawahar Lal Nehru was apprehending and foreseeing this likely devastation of Kashmir and so broke out and wept for Kashmir and did his best to retain it to spare Kashmir from destruction. It invoked resistance from the Kashmiris to the Islamic Jehadis who received tough and rough deal and cold shoulder not only from the Muslims but from all non-violent, defenceless and helpless Kashmiris. It was total reversal and departure from Pakistan's professed policy and claim for sympathy and common interest with the Muslims of Kashmir. It also vividly pointed to the differing and separate path that Kashmir was treading on made Pakistan to eat humble pie in Kashmir. Its deep philosophy and ingrained behaviour making the mental frame of Kashmiris, has perhaps not been understood, valued and realised either by Pakistan or by World Community.

It had strong affinity with India than it could develop with newly formed unpredictable Pakistan which had hitherto no political and human traditions, precedents, values and cultural outlook. She had to share with and depend upon the creed of violence and hate which was unacceptable to the people of Kashmir. It was and is accused in this whole game of tragedy and is guilty but unpunished so far. Would not the International Community awake on the qualms of conscience and show

Pakistan right path and ask her to abandon the illogical path of conflict and confrontation? Kashmir is an issue which Pakistan has no basis to uphold and fight excepting downgrading herself in the eyes of saner world and calling for adequate reprisals.

Pakistan's complicity in launching raid on Jammu & Kashmir, is well established and without doubt. Pakistan may have denied it every where, but the fact remains that she organised infiltration in and raid on Kashmir on official level. The raiders were instigated to wage the war against the infidels with free hand to booty, arson and loot, rape and abduction of women. Seeing the indigenous people becoming hostile to the "liberators" sent by Pakistan for this type of freedom and liberation, Pakistan tried to retract partially from the promise given to the raiders and gain her sinister motive and ill conceived objective by hoodwinking the people:

> *"A day after reaching Baramulla and after having experienced the loot, arson and abduction indulged in by a section of the tribesmen and how it had alienated the sympathy and support of the local Muslims and naturally afraid that they may act likewise in Srinagar city with a population of over three lakhs, Major Khursheed Anwar convened a Conference of the tribal Maliks and demanded an undertaking that on reaching Srinagar, they would not burn down any house, nor loot Muslim property and also refrain from abduction of women but the Maliks refused to yield. Their contention was that they had been brought with the promise of the "loot being theirs...while the deliberations were going on, nearly all the tribesmen disappeared on missions of loot and abduction in the town and its surrounding villages..."*[151]

Pakistan proved worst than primitive society, to go on rampage and indulge in loot, arson and abduction in the unruly atmosphere of free for all.

The inducement for commission of such crimes was on large level and, obviously, a part of the Pakistan policy to help organise raid, and capture of Kashmir. It, introduced, therefore, another element of harassment and torture by way of loot in the Pakistani infiltration, attack and raid of the State. As such, it was not only a pure and simple Aggression by Pakistan to grab the territory of another country, forcibly and cunningly. It was a multipurpose invasion, underlining various motives, found not so common in the Aggression.

The raiders spread in the old and large district of Baramulla and the usual gruesome and tragic tales were repeated. Many Hindu families managed to reach Srinagar for safety and protection. A

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[151] Mohamad Yousuf Saraf, Kashmiris' Fight Vol. II P 930.

bulk of those who could not flee converted to Islam and started living as Muslims. It is no gainsaying the fact that the raiders were particularly against and in search of "Baalwalla Kafir", as they called the Sikhs. Sardar was not spared wherever he or his family was found. They were the worst victims of Pakistani raid in Kashmir. They put up a fight against the Pakistani raiders upto Srinagar wherever their encounter ensued with the raiders. They suffered and were over powered due to want of ammunition. At Ningal in Tehsil Sopore, near Wular lake, a number of Sikhs gathered, male, female and children. They killed their wives, daughters and sisters with their own swords to have them spared from molestation and humiliation and themselves threw their bodies in the river! They, then vowed to fight with the raiders to their last drop of blood. And they did it boldly, but what could they do without necessary and adequate ammunition. The raiders possessed all the necessary and sophisticated armament, which the Sikhs lacked totally.

It is stated that the State Royal Armoury had a little ammunition and that too old rotten and of inferior quality and type. Where could that be supplied and how that would suffice in case of armed conflicts, is unexplainable. Some say that out gone British Chief of the State Army staff, Maj. General Scott had committed a deliberate lapse in not giving his arms requisition to the State Government for purchase of the ammunition and had wilfully avoided the purchase of the weapons. Some others say that was a conspiracy of the concerned British Officers in the State including State police chief, Powel to leave the State purposely deficient in arms. They hold the then Prime Minister, Ram Chandra Kak also responsible for this non-purchase of ammunition, as Kak's idea was that British Government would not quit India bag and baggage.

They say further about this conspiracy that the deployment of army was scatters at different posts and places in the State. It was not done with concentration at strategically important points so that formidable fight could be given. It was also a part of this conspiracy. Almost, at all sensitive posts and places, the army units, with either entire Muslim Army or with over whelming Muslim majority, had been deployed, generally with a Hindu officer heading the contingent. The Hindu Army was retained at the Army Head Quarter uselessly. The knowledgable circles also say that even at the time of fall of District Baramulla and when the raiders knocked at the door of Srinagar, the all told strength of the state army at Badamibagh Srinagar Army Head Quarter was about 5,000. The Lt. General Sen, however, says it was about 2000. These circles say that this figure quoted by Lt. General Sen is of a period much later when Indian Army had arrived Srinagar and had been fighting quite for some time past repulsing the raiders backed by Pakistan Army.

Pakistan got worried over the delay in capturing Srinagar Airport. It could leave no scope for landing of Indian Army in Srinagar by AIR as the negotiations about Kashmiris Accession to India were going on.

> "...*Two or three days after the entry of tribesmen when it was realised that no arrangements had been made to capture the airfield, a hundred volunteers led by Mr. Latif Afghani, a brave Muslim League National Guard Officer, were hurriedly sent from Rawalpindi to accomplish the job. It was too late.*"[152]

The old District of Baramulla in the Valley of Kashmir (which included present District of Kupwara also) was ravaged by the Pakistan raiders. They took a high toll also of all, Hindus, Sikhs even Muslims and Christians. Mohamad Maqbool Sherwani gave his supreme and sincere sacrifice in resisting these raiders and defending India in Kashmir. The leaders of the raiders, mostly Pakistan army personnel, were on his hunt. A man with strong anti Pakistan conviction and a dedicated Indian, loyal to his Party National Conference, could not put up with the devastation done by the invaders to his native place- Baramulla.

Mohamad Maqbool Sherwani was traced out and tracked down by the Pakistan raiders ultimately. He was nailed in the forehead with a wooden pillar and his stretched arms and hands too and then fired upon at Baramulla. His spattered blood hallowed and glorified the land that was trampled over by the callous Pakistani raiders. Sherwani represented the aspirations of the majority of Kashmiris living in Kashmir Valley. He was crucified, and a suitable monument in his memory needs to be constructed and its historical sanctity preserved.

One question to the Muslim world in general and to Pakistan in particular for the answer: Was not Mohamad Maqbool Sherwani a Musalman and why then was he killed with vengeance as a 'Kafir'?

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[152] Mohamad Yousuf Saraf, Kashmiris' Fight Vol. II P. 908-9. However, Mr Pran Nath Jalali, Communist Party (CPI) leader and veteran journalist from Kashmir, gave a different version to the author. He says that Latif Afghani's parents were exiled from Afghanistan with the King Aman Ullah Khan. He was living as refugee in Madras (now Chennai) along with his mother and sister. He was in Srinagar in 1944-45 and was then Joint Secretary All India Students Federation (CP I Student Wing). Shifted thereafter, to Punjab and remained in Pakistan. In 1947 Pakistani raid on Kashmir, he accompanied the Afridis to Kashmir, according to Jalali, but he further, says, Latif was a contact man of Communist Party of India and not a Muslim League leader / National Guard Officer. He was, according to Mr. Jalali sending reports to the Party and keeping it abreast of developments in 1947. Jalali's version may not be accepted so easily as Communists were favouring separate homeland for Muslims in 1947 and so Latif Afghani might have shifted his loyalties to the Muslim League and supported the raiders sincerely.

During the time, the raiders were in Baramulla engaged in three R's as being on rampage, ravish and rapine. They touched not some of the Kashmiri Pandits, on being pointed out by their Pakistani guides that they belonged to the community of Ram Chandra Kak and Prem Nath Bazaz.

By showing a bit of rare soft corner for Kashmir Pandits,[153] does not mean that they were not harassed, tortured, killed and converted in Kashmir. Two brothers, Brij Lal and Jawahir Lal were killed when their house was attacked at Ram Ghat, Baramulla. Their third brother Ram Chand escaped. After searching for him and not being traceable, his mother took him as killed. Her husband was handicapped and confined to bed. She collected fuel in the rooms and set the house on fire. She embraced her husband and both burnt alive alongwith corpses of her two sons. Ram Chand was, however, alive and in hiding. He died as displaced person at Jammu in May, 1994.[154]

At Village Gushi, nine Hindus were killed by the raiders, including Govind Ram and Ishar Bhat. The tenth person shot at by the raiders, was Ram Joo Bhat but the bullet passed touching his face. He was injured but survived.

October, 1947, was season for marriages in many Hindu families in the Kashmir Valley. In connection with one such marriage of Moti Lal Kuchroo, a marriage party comprising some relatives and neighbours, had assembled at his village Venkura. When the Party had just started to leave for bride's residence at Village Yarbug, the raiders callously attacked it. The members of the party were asked to stand in a row. The attackers shot down on the spot as many as eleven "Baraati's", including uncle of the groom, Arjun Nath Kuchroo Head Master, Vidya Lal Kuchroo, a trained teacher from Banaras Hindu University and Jia Lal Saraf, Banker and landlord.

In villages, Gulgam and Tikar also some Hindus were killed, besides Saint Gobind Ram who had arrived at village Ruhama. Raiders reached there to kill a local Hindu by the same name who was missing. Instead of him they targeted this Gobind Ram. In Village Waterkhani, one Thakur Joo Pandit alies Darvesh was killed.[155]

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[153] The word Kashmiri Pandits has been used here only with reference to the context instead of Hindus.

[154] See also Authors book, Kashmir – Trail and Travail.

[155] Mr. Roshan Lal Pandita (Advocate), hailing from Kupware district, says that the raiders used draggers also in killing and Thakur Pandit was not killed by bulletbut by dagger. He further says that because of raid and consequent dislocation, a Refugee Camp was set up at Sopore, where many homeless Hindus lived who could not go back yo their houses.

Moulvi Anwar Shah of Karihama Village came alongwith two tribesmen to Swami Aftab Joo, a great Kashmiri spiritual saint of the same village. Moulvi asked the Swami to collect other Hindus of the Village as he had come to convert all to Islam. "What gain would I have by converting to Islam?" asked Swami Aftab Joo. "Muslim has not to burn in fire," Moulvi Anwar Shah replied promptly. Swami called his domestic attendant Jabar Doom to bring a piece of "Lashihat".[156]

The piece of "lashihat" was given to Swamiji who made a small bunch of its sticks and tied them together with thread. On litting it up with match stick, he kept it in his own mouth for a couple of minutes. Then brought out these burning sticks from his unburnt mouth and said to Moulvi Anwar Shah, "What harm will fire do to me? It is your turn now and I will put it to your mouth". When Swami ji stretched his hand with burning sticks towards the mouth of this Moulvi Anwar Shah, he and his companions ran away from Swami Aftab Joo's room.[157]

A big number of Hindus in the district, mostly in the villages, were converted. Instead of seeing them killed at the hands of tribesmen, the local Muslims averted the bloodshed of Hindus and converted them to Islam. In many such places the Pakistani tribesmen searching for "Kafirs", the local Muslims told them: "No Kafirs, all are Muslims here." It was killing by the native Muslims two birds with one stone: Firstly, they did it as a service to Islam by converting the Hindus into Islam without giving any upperhand to the tribesmen. Secondly, they protected their lives but eliminated them as the Hindus from the soil without killing them.

Many Hindus of the district proceeded to Srinagar for safety by "Doongas"[158] on payment of very high charges which varied and ranged upto Rs 150/- per head. A family of Baramulla town hired a "Doonga" for this purpose. Its Muslim owner (Hanji) agreed to the deal on two conditions: First during the three days "Voyage" to Srinagar he should not be compelled to stop for easing bowels or making water. Second, females should not remain visible in the "Doonga". These conditions were obviously put to avoid incurring any risk of the attack.

In view of the situation, the family accepted the conditions. All the females were placed in the "Doonga" under the floor of

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[156] "Lashihat" is a special type of wood, the trees of which have wild growth in many areas of the countryside in the Kashmir Valley. On burning, it emits more light than any other wood does.

[157] The above narrated event has been confirmed by Mr. M.L.Thusoo, (Advocate) Jammu, who orginally belongs to Karihama.

[158] "Doongas" are big boats in Kashmir used for carrying passengers for specific trips by manually plying it on water.

wooden planks in sleeping posture for want of required height. They were dumped there like the cattles.

They all remained almost hungry for three days to avoid to attend the nature's call or to pass urine. When they reached at Shalateng, near to Srinagar, the "Hanji" sheltered the "Doonga" for a while there and the occupants went up to the river bank side to ease themselves. While joining others, a small boy struck with the burning stove on which rice was boiling and he got his legs burnt. They could not look for his treatment there. The child[159] crying with pain, was tactfully tied with the Doonga in front side and his legs suspended into River water to get him some relief from burning pain till they reached Srinagar.

It was not, therefore, killing or saving of the people only, but the trauma due to attendant or allied circumstances which people in the State, had to undergo on account of Pakistani raid, was varied in nature and horrible in effect.

The killings and conversions did not remain confined only to the new districts of Baramulla and Kupwara but to Budgam area also, now a new district. At Dhobiwan, a hamlet in Tehsil Tangmarg, 21 Hindus were killed and rest of the Hindus surrendered for conversion. The dead were buried and surviving Hindus converted to Islam but with a difference. In Districts of Baramulla and Kupwara, conversion was to Suni Islam because of Suni Muslim population there. But Dhobiwan and many other villages of Budgam district have overwhelming Shiat Muslim population. As such, they were converted to Shiate Islam and not to Suni Musalman. At proper Budgam, a Hindu, father of Dwarka Nath (later Petition Writer) was killed even after the Indian army had arrived.

About Srinagar, let it suffice to say that the entire city was surcharged with tremendous uncertainty, unrest and tension. The entire Hindu/Sikh population, was on tenter hooks. On the unchecked advancement of tribesmen, it was suspense all around and almost calm of a graveyard prevailing in the city. Every one, however, was tense, speculating about the things to shape and conversing with one another quietly not knowing what was to happen next hour.

Had there been no political rivalry between Sheikh Mohamad Abdullah and Mohamad Ali Jinnah, the things perhaps, might have been different. The conflict between the above two "Qaide Azams" had deepened and reached to the point of personal vendetta. If the raiders were able to intrude the city, Sheikh Abdullah and some other leaders of National Conference would certainly have been amongst their

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[159] The child, Mr. G.N.Kuchru is now a retired Dy. Director of the State Government, living in Jammu as displaced person outside Kashmir Valley.

first targets. Even many of the National Conference workers and activists would have met the tragic fate at the hands of Pakistani raiders. No body could say how many other likes of Mohamad Maqbool Sherwani (of Baramulla) were to be crucified in the manner he was.

Sheikh Abdullah being aware of his uncertain fate as also of his family, wisely, therefore, shifted his family members including his wife and son Farooq Abdullah, to Indore. He was himself much disturbed, perplexed and perturbed on the delay of accepting the Accession of Kashmir by the Government of India and in dispatch of the Indian army to Kashmir. Every minute was literally valuable and crucial. Palladium Cinema, Lal Chowk, Srinagar was converted into temporary Head Quarter of National Conference. Its leaders would come there with sunken faces to know the latest developments or for consultations with one another. They were anxious about acceptance of Kashmir's Accession and dispatch of army to Kashmir at once by New Delhi to protect the people from Pakistani raiders. A few crucial days duration was passed like swinging between life and death. Every moment was tiresome and every minute a breathtaking. It was like sitting on a bubbling Volcano, every second thinking it would burst out and consume all on the crest and yet every time solacing oneself, some miraculous feat and providential decree might defuse it, to save and protect the innocent. The time was the essence of this whole tug of war.

A Hindu delegation of Yuvak Sabha met Sheikh Mohamad Abdullah and discussed the situation with him which was taking a serious turn due to the apathy of State Government and dragging of the matter by Government of India and so not sending the army help immediately. The only hope left to the Kashmiris, other than pro Pakistanis, was acceptance of Accession by India and immediate despatch of army help to Kashmir. Sheikh Abdullah was himself worried and expressed so to the Kashmiri Pandit delegation. "Something was being done," Sheikh Abdullah told the members of the delegation. Without naming the Indian authority, Sheikh Abdullah informed them that "he was telling them from the horses mouth that the things were being settled and that was the latest". He told them.[160]

Neither Maharaja Hari Singh could read writing on the wall, nor Indian Government was vigilant enough to act promptly to spare the harassment and torture to those people who were innocent and wishing Kashmir's Accession to India. Further delay in sending the army to Kashmir, would have resulted in repeating of Muzaffarabad and Mirpur by Pakistan in Srinagar and elsewhere. It was, therefore, fool hardiness on the

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[160] Late Mr. Shri Kanth Chakoo (Advocate) who was himself in the delegation, had told this author about it in the Bar after he had joined it.

part of Government of India to insist on divesting the Maharaja of his whole Powers and investing the same, even before execution of Instrument of Accession, in Sheikh Mohamad Abdullah and his National Conference. This also contributed to delay in Accession, particularly at the crucial hour of its history, when entire Hindu/Sikh minority in the State was facing inexplicable carnage at the hands of Pakistan. Maharaja Hari Singh's incapacity to defend the vast borders of the State, reasons whatever, and his delay dallying the Accession due to his unwillingness to transfer the Power to Sheikh Abdullah, also exposed the people and the country to the risks.

The Government of India ought to have kept in consideration the provisions and spirit of the Indian Independence Act. It ought to have softened its hard and harsh stand against the Maharaja, beyond the scope of law, in demanding the transfer of power to Sheikh Mohamad Abdullah even before the execution of Instrument of Accession to India. Nehru's so much love for Kashmir was in fact, dedicated sympathy and adherence to Sheikh Mohamad Abdullah his National Conference and general people as well as for Kashmir's strategic value and beauty.

Pakistani element in the Muslim Conference was, however, looking for an opportunity to disturb the peace in the Capital City of Srinagar. Once the peace was disturbed, lawlessness would have ensued and the situation was bound to go out of control in that explosive atmosphere. In case once the situation would have flared up and gone out of control. It could not be then brought to control, under those circumstances, even by Sheikh Abdullah and his National Conference. Only a little match stick was required to be thrown into the combustible stock which could ignite fire among the interested people here and there within no time. With the killing of Chief of the State Army Staff, Brigadier Rajindar Singh and Maharaja Hari Singh's shifting from Srinagar to Jammu, encouraged and emboldened the Pro-Pakistan Muslims in the Valley of Kashmir. They decided to assemble next day in the premises of Jammia Masjid Srinagar. Their plan was to make demonstrations in support of Pakistan and the raiders sent by her and to create communal riots and rowdyism. Loot, arson, rape and abduction of women, killing and conversion was the indispensable part of the Pakistani campaign of raid on Kashmir. It had to be started, therefore, making the Hindus and Sikhs first and the immediate target.

Jamia Masjid was falling within the jurisdiction of Police Station of Khanyar (Srinagar). Assad Khan, a Kar-i-Khas (CID) who was posted at Police Station Khanyar, gave his day's Diary report to his SHO Mahanand Joo Harkara in the evening. According to his report the Muslims were to assemble at Jama Masjid on the following morning for purposes of sabotaging the peace, starting subversive activities and demonstrating in favour of Pakistan. The CID further told the SHO that Brigadier Rajindar Singh was killed and raiders were advancing. He also informed the SHO that

subversive activities would start from Vicharnag and some other places by killing Hindus and burning their houses.

Perturbed on receiving this information and report from the CID, Mahanand Joo Harkara, SHO immediately contacted his officer D. N. Kaul, ASP city on phone and informed him about that CID report and sought his instructions. ASP directed the SHO to use his discretion according to the situation. How the mob frenzy and violence could be faced and controlled by the SHO with some Constables, Hindus and Muslims, in the Thana, under that abnormal situation? The SHO became extremely perplexed, worried and harassed too. There was no sufficient petrol available for higher Police officers to move freely and frequently from one place to another and to have patrolling in the City along with the constabulary for avoiding breach of peace and break of violence. There was, in fact, no Government, much less effective. It were some Kashmiri Pandit officers and administrators who ran the Government and kept the Administration going on in Kashmir during those crucial and tortuous days, apparently in a symbolic way.

Wit came to the SHO and he rushed in the night to Hari Parbat Fort. A garrison of 25 soldiers headed by Subedar Moti Lal Gorkha was stationed there. The SHO explained them the position and requested the Subedar for help. The Subedar agreed and allowed 15 Jawans with arms to reach the Police Station in the morning. He retained 10 soldiers in the Garrison for any emergency and eventuality. The Subedar expressed to the SHO that their rations had exhausted and they were at the verge of starvation.

The SHO contacted his relative, Shyam Lal Harkara, owner of a chemist shop "Harkar and Co", in Srinagar and apprised him of the whole situation. He requested him to bring potassium cyanide from the shop early in the morning and advised him that in case he was unable to control the situation on the ensuing day and the riots started, he should administer the poison to all the women folk in the household.

The Subedar, however, spared 20 Jawans fully equipped, who reached the Police Station Khanyar at 9 AM on the following day. The Pro Pakistan Muslims started assembling at Jama Masjid under the leadership of one Ghani Sarhadi, as per their programme. Many of them were carrying axes, draggers and butchers knives etc. The SHO with some constables and in the accompaniment of army personnel also reached the spot and took their position. Seeing the aggressive mood of the people assembling there, the army men apprehended the necessity of firing which they would not, in absence of the orders from a Magistrate. They, therefore, asked the SHO, to get a Magistrate on duty there for issuing necessary orders, otherwise they would not fire on the mob if need

arose. The SHO explained them the difficulties of paucity of time and other limitations and asked them to act on his directions as he was, under the situation, empowered under sections 147 and 148 of RPC. The army men accepted SHO's contention.

The swelling mob started calling of names to Kashmiri Pandits (the SHO himself was a Kashmiri Pandit) and the situation was flared up. On their side closed gate of the Mosque was forcibly broke open by the assembling violent mob. Through the Drum Beater, the Police got announced that no body should come out of the gate, otherwise he would be fired upon. This Police warning did not deter the hostile mob from breaking the gate and attacking them and indulging in violence. The swelling mob started coming out, brickbatting and attacking the Force and resuming other types of violence.

The Force was asked to fire on the violent and attacking mob rushing towards them. Firing was started and among the unruly mob there were 5 casualties. This, however, demoralised the violent mob. They dispersed and began to run away, some leaving behind their axes and draggers, thinking the State armed force had strength in the city and could not be fought out without arms and ammunition. Apparently, they feared and carried the impression that the Maharaja's Government very much did exist and that his armed force was fully alert and equipped to protect the city, though the Maharaja had already gone to Jammu under mysterious condition.

The Police won the battle and frustrated the attempt for communal uprising and deranging and worsening the situation. Within a short time, everything was calm and normal as the violence did not spread beyond the precincts of Jama Masjid and that also died down within a short time. Non joining of Sheikh Abdullah's followers in this demonstration was also an important factor for Police success. Had Jinnah mellowed his regid position and attitude against Sheikh Abdullah and his National Conference, the things would have certainly been different. In the evening, Peer Maqbool Shah Geelani, Mutwali Dastigir Sahib Khanyar and Mohi-ud-Qara, the young budding leader of National Conference, who was known in his time as Bulbule-Kashmir, congratulated the SHO for saving the city. Once disorder, loot, arson, killings etc. had started, it could not be controlled which would have been fall of Srinagar and Airfield Srinagar also would have slipped out of hands. In that event, physical possession of Kashmir would have been lost to the perfidy and jingoism of Pakistan, contravening all International norms and values, which she even now pursues in Kashmir brazen facedly.

Next day, D. P. Dhar sent for Peer Maqbool Shah Geelani, through the SHO Khanyar, to see him at Lal Chowk Head Quarter of National Conference. The SHO escorted Peer Maqbool Shah to Lal Chowk and waited to escort him back. On coming out, beaming Maqbool Shah disclosed to the SHO that Government of India had accepted Accession and army was reaching Srinagar. When the SHO came back to the Police Station, all the Muslim Constables

had absented, SHO Harkara has told me. In the flashing of Accession news and arriving of Indian army, he further added, the workers wedded to National Conference, found hope and succour. But others of the hostile camp felt nervous and almost went into hiding. When the Patiala Tigers reached Srinagar Airport, its Captain Randhawa intimated Harkara on phone about arrival of the army at the Airport, to enthuse this SHO with high spirit.

Without giving other details of casualties and conversions, one thing needs to be mentioned here. After Indian army drove out tribesmen and Pakistan army from Baramulla, some Hindu voluntary youth groups from Srinagar visited some affected towns and villages. They persuaded the converted Muslims to return to the fold of Hindu Dharma. They generally agreed and reconverted. Some of them were brought to Srinagar also as refugees while they were still in Muslim dress and style. However, Shiate converts of Dhobiwan strongly resisted reconversion initially. When a Hindu Youth group of Yuvak Sabha visited them, they behaved and talked in a Muslim way and style. Those were the days of "Moharrum" and they were, more or less, in a mood of "Moharrum" and observing its tradition, uttering "Ya Hussain, Ya Hussain," with beating of chest, in their houses.

The group gave them various explanations and strongly persuaded them to reconvert. They did not agree and asked them to leave the converts to their own fate and not to disturb them. *"We have sufferred enough persecution as Hindus and the consequent inimical situations from centuries long,"* they explained and continued, *"Go and see outside, the forlorn graves of our dearest and nearest ones, butchered ruthlessly without any fault. Forgive us! We have no strength now to bear all this any longer,"* they emphasised. K.N.Dullu[161] of the group clarified and assured them that as a part of India, the threat of discriminations and persecution of Hindus would in future end for ever. They were finally to prevail upon them to rejoin the Hindu fold and so they finally yielded and reconverted. As a result, the first thing they did, was to arrange and purchase cloth for cremation of their killed ones. Exhuming them from the graves they cremated them according to Hindu rites.

Sikhs were particularly target of Pakistani raiders in Kashmir Valley as they were elsewhere in the State. In villages Wanpora, Panzla, Yarbook, Chatusa, Chandosa, Singpora and in many villages as also towns like Baramulla, Sopore, Handawara etc, Sikhs were brutally massacred. In Chandosa Kuchi, sole surviving grand mother of her slain grand children and other members, numbering 22 in total, were cremated by her single handed. She set her house on fire and burnt herself alongwith others. It has become a place of pilgrimage for the Sikhs and every year, a commemorative function is held there.

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[161] The irony of fate is that Mr K.N.Dullu himself lives somewhere near Delhi as a displaced person from the Valley without perhaps knowing the fate of the reconverts.

CHAPTER – VIII

HAVOC IN GILGIT AND OTHER NORTHERN AREAS

By saving the city of Srinagar, the Valley of Kashmir was saved. However, yet Pakistan has grabbed some other areas of the State of Jammu & Kashmir so far. In the North Western sector of Kashmir Valley, on the Keran side, a strategic post called Sharda is located. A famous shrine of Hindus known by the same name as Sharda, is situated there. In view of the strategic importance of this place, a fort was constructed there very long back and a garrison stationed there by the Dogra rulers.

It was in October 1947, the garrison comprised around 16 soldiers, which was headed by Shyam Lal. Out of this strength, 13 were Muslim. Smelling foul, Shyam Lal sent two Hindu soldiers to Srinagar to get some reinforcement. The ring leader of the Muslim soldiers, Ahamed Khan of Srinagar, found the time opportune to strike and finish Shyam Lal and capture the fort. On the pretext of coming of huge number of raiders, he suggested to Shyam Lal that they all would come out on the road and fight them out before they encircled the Fort. Shyam Lal allowed them to take position outside and himself stayed at the Fort as its guard. In the night Shyam Lal's room was bolted from outside and set on fire. He was burnt and died inside the Fort. In the morning, Ahamed Khan along with other soldiers entered the Fort, captured it and they switched over their loyalties to opposite side. Since then, the devotees of the Sharda Shrine, have been deprived to go on pilgrimage there as the area is under illegal occupation of Pakistan. The condition of the Shrine is reported bad.

Gilgit Agency called as it is, and comprising Gilgit, Hunza, Nagar, Chilas, Yasin, Punial, Gupus and Eshkoman, was Northern Region of the State. Sakardo is a small township in the area where a few Sikh families also were living before raid in 1947. In view of strategic value of Gilgit Agency, the British Government in India had taken it on lease for sixty years from the Maharaja of Jammu & Kashmir in 1935. As the British Government vacated India in August 1947, as such, they handed over Gilgit Agency back to Maharaja Hari Singh on August 1st, 1947. In this handing over back, a function was held at Gilgit, the Chief of the State Army Staff, Maj. General H.L.Scott and the Governor designate for Gilgit Agency, Brigadier Ghansara Singh also attended it. During the lease period of 12 years, British Indian Government controlled Gilgit Agency through the Governor NWFP.

After Ghansara Singh took over as the Governor of Gilgit Agency, the two British Officers of the British Government, Major Brown and Captain Mathieson, were confirmed on their posts. Two officers of the State Force also were appointed in the Agency, Lt. Sayeed and Lt. Ghulam Haider. The total strength of the Dogra army in the Gilgit Agency was about 1200. Out of it 500 were Muslims with several Muslim officers. Maj. Brown wanted the Maharaja to accede to Pakistan.

> *"Maj. Brown told the Governor to advise the Maharaja to respect the will of the people and accede to Pakistan. This enraged the Dogra Brigadier, and it seems that relations between them started deteriorating. Ghansara Singh then arranged a public demonstration of firepower, employing all types of available weapons from Bonji Cantonment. It did frighten a section of people and as well as some leaders of the under ground movement...the hardcore, led by Babar, decided to continue with their plans."*[162]

The two British Officers retained in the service of State Forces/Ladakh Scouts, also played treacherous role alongwith Muslim officers and troops of the State. Although Gilgit had fallen on 1st November 1947, yet the Dogra forces at Bunji Cantonment and other places did not surrender, despite the wireless message received. They neither agreed to surrender nor to yield:

> *"On 3rd November, a wireless message was sent to the Dogra garrison in the name of the Governor, to surrender but they refused to obey unless a written order was received from him. Major Brown sent a wireless message to Captain Mathieson at chilas to move at once three Platoons of the scouts and capture the following features..."*[163]

Bridge at Bunji towards Srinagar was burnt down by Muslim army. Sikh army fought from Bunji onwards but were finally defeated. At Tsari, two State Platoons were deployed. Muslim Platoon under the command of Cap. Nek Alam was on the one Bank of the River Indus and the other Platoon under the command of Cap. Kishan Singh was on the other Bank. The Muslim Platoon without fighting joined the enemy camp on 10th February 1948. Kishan Singh's position became embarrassing and he escaped for safety:

> *"The treasury and the ration dumps at a store were captured intact. 350 Dogra soldiers including three officers who had*

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[162] Mohamad Yousuf Saraf, Kashmiri's Fight Vol. II P. 995
[163] Ibid. P. 997

escaped from Bunji were captured in these operations... it was Bhaktawar Shah again who traced them in a cave, a hand to hand fight ensued in which Kishan Singh was killed."[164]

Pakistan directly annexed Gilgit Agency with her territory, and did not make it a part of so called Azad Kashmir which also is under illegal occupation of Pakistan. The British Governor of NWFP, George Cunninghom was supporter of the raiders of Kashmir and had helped organise the raiders in NWFP as already indicated. As such, this area was in her direct control. Indian army fought in Kargil and Ladakh, which were regained and retained by India. Lt. General K.S. Thimaya was incharge of Ladakh Zone. But the main military operations were conducted by Brigadier Kanhiya Lal Atal.

"Operation sparrow which was devised by Brigadier Kanhiya Lal Atal on October 14th, 1948, to stop infiltration and drive out Pakistani troops from strategic mountainous landscape, Brigadier Atal led tanks over the Zojilla pass which was no less short of a miracle in those days. The enemy was disheartened and forced to retreat. On November 15th, 1948, the Indian Army captured Drass. The whole credit goes to... military Commander Brig. Kanhiya Lal Atal. The victor entered Kargil on November 24, 1948... it is said that after registering hard-earned victory over Pakistani troops in Drass, Kargil and Ladakh, Brig. Kanhiya Lal Atal wrote a letter to the Prime Minister, Pandit Jawahar Lal Nehru, urging him to give him more time so that the Indian army (under Brig. Atal) could very easily retake the whole of Pak occupied Kashmir and rid the State of infiltration. But Pandit Ji refused to take the cognizance of Brig. Atal's views and announced unilateral ceasefire on January 1st, 1949". [165]

It may be mentioned here that the army faced difficulty in taking the tanks to the height of Zojilla, it was a Kashmiri Overseer, Shambhu Nath who suggested to the army to disassemble the tank into parts, carry up that material to Zojilla and then reassemble the parts there at the top to make the tank functional again.

The bridge over Kishan Ganga River (now called Neelam by Pakistan) at Teetwal, connected Muzaffarabad with Karnah, a part of this district. The Kishan Ganga also stands a mute witness to the Hindu/Sikh holocaust of 1947.

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[164] Mohamad Yousuf Saraf, Kashmiri's Fight. P. 1001.

[165] Dr. Baikunth Nath Sharga, Kashmiri Panditon Ke Anmol Rattan. PP. 32-35, (Also Swaroop Kumari Bakshi, Operation Sparrow) Review- G. L. Jalali, Kashur Gazette, Delhi, February 23, 2002.

"It was the same Kishan Ganga river into which over one thousand Sikh and Hindu Ladies jumped at Muzaffarabad, Domail and Chakoti to save themselves from falling into the hands of invading marauders from across Khoala in 1947".[166]

In Karnah side, which now is a part of Kapwara district of Kashmir Valley, Teetwal was an important township with sizable Hindu population. Pakistani invaders, however, like other places, cleared it as well from the Hindu/Sikh 'infidels'.

"Before 1947, Teetwal-a flourishing town in Karnah was a Hindu majority town and also a centre of trade and commerce. In the ensuing carnage hundreds of Hindus were killed in Teetwal. Now there remains only one Hindu shopkeeper, eighty years old Gian Shah who has now shifted his shop to six Kilometres from Teetwal. Tangdhar is the present Head Quarter of Tehsil administration... In 1989, the Tehsil Headquarter building which housed all the offices of Tehsil administration, was gutted in a fire. This was first major terrorist act in Kashmir. There are remnants of ancient Hindu shrine close to the gutted HQ building. Once there used to exist a spring in the midst of which was lying the idol of Hindu goddess Sharika. In 1947, it was demolished and broken by a frenzied mob led by a local teacher, Raja Ismail".[167]

The Northern frontier side of the State of Jammu and Kashmir, Gilgit and Ladakh, areas, are most important from strategical point of view. The British Government had, therefore, sustained a keen interest in and the close watch over this part of the State, though its terrain was rough and access tough. The Sikhs and Dogras have soaked this land with their blood during their various expeditions to create and consolidate this State, which was known at the Maharaja's time as Jammu Kashmir, Ladakh and Tibbit ha. But, the fanatical Muslim approach within and outside the State was narrow and parochial which resulted in its disintegration. It is bound to recoil, one day or the other, any where and every where, not in the State only but in the former Sub-continent of India as this part of the world was called. Without going into details here and making diagression from the main topic, the British Government took over direct charge and control of Gilgit Agency in 1935. The Maharaja was compelled to transfer this area to the British Government through its Political Department, for a lease of sixty years. The British wanted to convert it into a buffer

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166 G. L. Jalali, A close look at our borders, Kashur Gazette, 29 June 2002.
167 Ibid.

between Russia and India. They also wanted to convert this frontier area of Gilgit-Ladakh into a buffer between China and India as well.

"The British Government in India had sent officially 3000 truck tyres in 1945 to Ladakh. The huge military hardware was also sent by this Government there. This was finally carried to Yarkand (Chinese Turkistan), a Muslim belt of China to organise and create a Muslim revolt against China in Chinese Turkistan".[168]

In view of the strategic importance of Northern area of Kashmir, the British Government was urged on non-Government level also to hand over Gilgit Agency back to the Maharaja of Jammu and Kashmir. And it was returned to Maharaja Hari Singh before departure of British from India in August 1947.

"The political conditions in India are fast changing. The British Government is apparently going to transfer power to India.... Under these circumstances, it is essential to fix the borders of every (State) unit. All the areas taken over some how or the other, by the Indian Government through its Political Department, must be returned to such autonomous units...Mr. Calwin, Prime Minister of the State ... had finalised the agreement about Gilgit with the Government of India."[169]

This demand was raised before vacation of British Government from India. But the British Officers did not abjure boosting up the communal policy and instigating Muslims against non-Muslims,

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[168] One Sikh gentleman, Kaisar Singh, resident of Sakardo (Gilgit) now in Pakistan occupied area, had informed the author about this and other facts. He was instrumental in arranging for carriage of the goods onward to Ladakh. According to him, the Gora Army (Non Indian) of British Government brought the goods from British India to Kangan and Sonamarg, then those were carried from Kargil to Ladakh. Kaisar Singh's family alongwith brothers had settled at Sarkardo and were doing business and running shops there. In view of the strategical importance of Northern Border of the State like its Gilgit frontier area, some Political circles did not like the British Government to continue the hold over the Gilgit Agency.

Prior to the vacation of the British Government from India, a demand was, therefore, raised by certain quarters to return the areas and restore the original boundaries and border of the State units: Led by British Army officers with some Muslim support against the non-Muslim establishment in 1947, Kaiser Singh's two brothers were also killed at Sakardu. He was politically conscious and was knowing the topography of the whole region. He had met Prime Minister of India Jawahar Lal Nehru in 1947 after Pakistan raids and apprised him of strategical importance of the area. He had strongly requested Mr. Nehru to recapture Ladakh at least for maintaining the strategic value of Kashmir Valley. The author had recorded interview of Kaiser Singh in Jammu on February 7th, 1987.

[169] The Daily Martand dated February 9, 1947. This Paper was official organ of Sanatan Dharm Yuvak Sabha, then a premier Political Organisation of Kashmiri Pandits in Kashmir Valley

nor did they, by and large, desist from taking the Sate of Jammu and Kashmir to Pakistan. In pursuance to their sordid political policy towards the dismembered India and the Maharaja of the State, the conditions in Gilgit Agency were worsened and made deplorable. Their signs of bias found visible and aggressive expression in Gilgit. They made Pakistan a Muslim Cause and supported her and sought instead, Muslim response to their policy and instructions, which they invariably did.

The two British Officers Maj. W.A.Brown and Captain Matheson (of Ladakh Scouts) alongwith two Muslim officers Cap. Mohamad Syed and Lt. Haider played mischievous role. They pleaded openly for joining of Gilgit Agency to Pakistan. Thinking perhaps, that the creation of Pakistan was mostly due to the British Government and so, Pakistan could he amenable to British influence and policy than India would be. In that way, Gilgit Agency would serve as a buffer against Russia and China, they believed, and would meet the requirement of devised British initially policy.

The Governor designate to the frontier area, Brig. Ghansar Singh Jamwal had resented retaining of British Officers. Before joining his new assignment, Jamwal called on the State Prime Minister, Ram Chandra Kak to express his objection in this regard and also to mention his other apprehensions and requirements. Kak was believed to be already under the British influence and had leaning towards Independent State of Jammu and Kashmir, he did not take serious notice of his grievances and suggestions. Brig. Ghansar Singh expressed his grievance as under:

> *"On 20th of July 1947 I went to the Prime Minister. I told him, that I had once before been to that part of the State and knew most of the problems confronting the people inhabiting this region. I strongly objected to the retention of British officers in Gilgit Scout as this would unnecessarily create problems and hamper in the independent disposal of the cases. The Prime Minister refuted the idea. It was decided that Maj. Gen. H. L. Scott, who was Chief of the Jammu and Kashmir forces would go with me to see my requirements on the spot and report to the Government."*[170]

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[170] Brig. Ghansara Singh Jamwal, Gilgit Before 1947. P. 23. The author had met Brigadier Ghansara Singh Jamwal, Ex. Governor of Gilgit, in Jammu long back and enquired about some important events of Gilgit Agency in 1947. He also requested him to give to the author, a copy of his speech made in the Rajya Sabha in that regard as some time after his repatriation from Pakistan, he was made Member of Rajya Sabha. The former Governor of Gilgit was not happy with the State Administration functioning then. He also was resentful of the role of Muslim army in the State forces, who mostly joined "enemy" and, according to him, turned disloyal and betrayed the

Before leaving for Gilgit to take charge as Governor of Gilgit Agency from Lt. Colonel Bacon, the British Political Agent there, Brig. Ghansar Singh Jamwal was apprised of the situation prevailing there, by Shyam Lal, Secretary State Political Department. He took pains to explain and convey him some important facts like *"all officers of the British Government had opted to serve Pakistan"*[171] as well as the *"Scouts and the whole Civil Establishment"*.[172] They had switched over their loyalties to Pakistan as they were under the influence of British Officers. In other words, the British Political Agency was working for Pakistan in Gilgit. To return this area to the Maharaja was, as such, a ruse to fulfill the promise of restoring it back to the High Highness. The area was ostensibly, returned to the Maharaja but only to snatch it subsequently from his hands and then to transfer it to Pakistan. For this, the British Officers of the British Political Department had, obviously, made up their mind and done their ground work already in this regard.

The substitute of the "civil establishment" was hardly detailed there which also was a serious lapse, deliberate or otherwise, under the circumstances obtaining then. The picture was emerging almost clear. What effective army and other measures were then taken commensurate with the alarming situation is not clear? Perhaps taken none. Why were not taken, is also not clear but is only a matter of speculation and inference?

The things did not rest here: Some time after Ghansar Singh jamwal had taken over as Governer of Gilgit Agency, one company of 5th Jammu and Kashmir infantry deployed at Bunji, Battalion Head Quarters, was relieved. As against this, Companies of 6th Jammu and Kashmir infantry, were sent from Srinagar to Bunji. The leading Company was commanded by Captain Hussain Khan. 6th Kashmir Infantry consisted of two companies with Sikh and Muslims almost in equal ratio. It was commanded by Lt. Col. Abdul Majid Khan, and was to be stationed at Bunji, about 34 miles before Gilgit. Besides the above two officers, the other Battalion officers of the 6th Kashmir infantry included Capt. Ishan Ali, Cap. Mohamad Khan, Captain Baldev Singh, Lt. Sukh Dev and Lt. Rugh Nath Singh. While proceeding to Bunji, the Muslim army men of the 6th Kashmir infantry started shouting slogans of Pakistan from Bandipora and onwards. The Governor Ghansar Singh says:

State at the time of crisis. "Not only that", he added, "they harassed and killed the non-Muslims without any reason and converted the rest to Islam at the point of gun". He gave the author a copy of his booklet from the exhausted stock, telling him that contained the material, based on his speech, experience, knowledge and study.

[171] Brig. Ghansara Singh, Gilgit Before 1947, P. 24.

[172] Ibid. 25.

"I got applications from the locals of Gurez and Astore that the Military party often shouted Pakistan slogans as they approached villages and they should be...I sent these applications to Major General Scott and to Brigadier Rajindar Singh emphasising the need for not sending this Battalion".[173]

But this Battalion joined at Bunji and was not recalled. Raja Noor Ali Khan, Revenue Assistant of Gilgit, who remained firmly and sincerely loyal to the Maharaja up to last, went on tour to Astore. On coming back, he confirmed to the Governor that the Military detachment had actually shouted Pakistan slogans in Astore area too. The Governor wrote a D. O. letter in detail to the Prime Minister and Deputy Prime Minister, but received no replies.

Such type of anti-State slogan mongering by detachment of the State army, was a treason and non-pardonable crime. The statement given in the applications by the members of the public and made against the shouting of Pakistan slogans by a detachment of the Force, were confirmed. The Army chief, Maj. Gen Scott got corroboration of these applications/complaints from some residents of Gilgit Agency against the concerned Regiment of the Army. A responsible officer of Kashmir Police Force had "personally heard these slogans at Warwam near Koorgbal", conveyed Scott to the Governor, Ghansar Singh Jamwal and wanted a proper enquiry and arrest of the Army men "involved" therein.

As a consequence thereto, the Governor called Lt. Colonel Abdul Majid Khan, immediately at Gilgit from Bunji and directed "him for immediate action and report."[174]

After two days, Lt. Colonel Khan telephoned the Governor that the allegations of shouting of Pakistan slogans by the army was not true but some religious slogans were shouted and thus, he shelved the case. The role of the Muslim army was in general dubious, as such, Lt. Colonel Khan distorted the truth. The Governor sent the Enquiry and other papers to the Army chief Maj. Gen. Scott, for consideration. The State Muslim army was, by and large, overtaken by Muslim League's political concept of Two Nation and Islamic fundamentalism.

It is all the more surprising as to how, why and under what circumstances the 7th Infantry of the State was disbanded earlier? It composed of Sikh and Kangra Dogra half-and-half. In the 6th Infantry, Sikhs were raw recruits and only Muslim Company was trained. The Governor of Gilgit had to depend, as such, on the undependable Company

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[173] Brig. Ghansara Singh, Gilgit Before 1947, P. 28.
[174] Ibid. P. 29.

of this Infantry. In such a delicate and abnormal situation, the deployment of army required discreet selection, particularly for the sensitive areas.

The pattern of the deployment of the State Army at various garrisons and places of the State was manifestation of some ulterior motive being behind it. Anti State and the Anti Maharaja segments of the State Army ought to have been disarmed promptly and disbanded sharply. This Anti State and secessionist sentiment on their part, did not confine to that only but raged communal holocaust of non-Muslims of the area later on. As such, it turned out to be the baneful to the human society. At the same time, it indicated presence of some elements in the Administration being sympathetic to the opposite side at the cost of the innocent people.

Upon the Governor's arrival in Gilgit in the accompaniment of Maj. Gen. H. L. Scott, Chief of the staff of the Armed Forces in the State, Maj. Brown and JCO's of Gilgit Scouts went to pay their respects to the Army Chief, as also to the newly appointed Governor. During the course of discussion, these Army officers had cheeks to tell them openly that they wanted to serve Pakistan. *"They will serve the State if their demands were adequately met Maj. Gen. Scott noted down all their demands which were about a dozen in number and promised that he will obtain sanction and communicate the same to the Governor".*[175]

After dispersal, the Governor told the Army Chief some of the demands would not be acceptable to the State Government for being most unreasonable.

> *"Similarly the next day the whole civil establishment in Gilgit came to meet me and stated that they all had opted to serve Pakistan. They would serve the State in case they were given higher rates of their pay".*[176]

The Governor was given no powers. He only could recommend their demand to the State Government. The British Army officers being at the back of this trouble, the civil staff stopped to work and non co-operated to fail Kashmir Government authority in that part of the State. It was to create circumstances to facilitate seceding from the State and joining Pakistan;

> *"I noticed that there was no officer at Chilas post, so I sent Captain Syeed, now with the Scouts, to Chilas on tour. On his return he reported that one Captain Hamilton (Ex. Scout officer) on his return to Peshawar, had openly said at Chilas, that the people need not worry, as they will bring Pakistan there within six months time."*[177]

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[175] Brig. Ghansara Singh Jamwal, Gilgit Before 1947.
[176] Ibid. P. 26.
[177] Ibid. P. 28.

Trouble was shooting up in Gilgit Agency on Army officers level in consultation with Pakistan. George Cunningham, Governor of North Western Frontier Province (NWFP)of Pakistan was taking all interest from the outset in seeing the fall of Jammu and Kashmir State and annexing it with Pakistan. The people of Gilgit Agency were by and large, loyal to the State of Maharaja Hari Singh. As such, there was no demand or upheaval on the local people's level for joining Pakistan excepting on the army level, engineered and given impetus by the British Officers. According to Governor Brigadier Ghansar Singh's assessment based on general impression, British Officers did not reconcile with the return of Gilgit Agency to the State and consequent transfer of power to the Maharaja's Government. He says:

> *"The general impression was that the British officers did not like the change over, but the Gilgit public, however, was highly pleased with the transfer of power and they welcomed the change, but were surprised to find that I had come all alone."*[178]

It makes little sense of the British Army officer's decision to have opted for Pakistan service when at the same time they continued in the service of State Force. This double faced posture adopted by them, was conflicting and contradictory unless there was some impelling extraneous consideration for doing so. If their move was sincere and they opted for the service of Pakistan honestly, they ought to have got themselves relieved from the State Army service and shifted to Pakistan in order to seek fixation in the army there. To do so was obligatory upon them. This common practice was binding upon all concerned to follow, whether it was civil establishment or the Ladakh Scouts. They could have relieved themselves from the State service immediately and gone to Pakistan.

In the alternative, they should have been discharged from the State service and thrown out of the State boundaries. It was strange that even after communicating their decision of opting for Pakistan service, which unlike India, had no relationship with the State of Jammu and Kashmir under the theory of Paramountcy, were not discharged. The Standstill Agreement was flagrantly violated by Pakistan and she had imposed economic blockade on the State, including Gilgit Agency. She had, therefore, assumed the role of a hostile country. Later, she was regarded for all practical purposes, as an enemy country as she launched an illegal and unwarranted aggression on the State.

Obviously, therefore, all those who announced to opt for Pakistan service were, by any stretch of imagination, no better than enemy agents and could not be given any foot hold any where and in any

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[178] Brig. Ghansar Singh Jamwal, Gilgit Before 1947. P. 25.

part of the State. They deserved the strict and penal treatment accordingly, which, however, they were not accorded. It was so because of connivance of some Government authorities partly due to the political confusion that overtook the State as well as the lack of adequate administrative machinery, and partly due to lack of will and capacity to deal with the situation.

On the birthday of His Highness, a Darbar was held at Gilgit which was attended by many Civil and Army Officers. It provided an opportunity to all the Muslim army officers to come together. They decided to co-operate and plan a *coup de'tat* in the Gilgit Agency to establish Pakistan there.

In the context of political developments taking place in India, future uncertainty was gripping the State well wishers of different sections of the society in Gilgit Agency. They wanted to convey their personal feelings to the top brass of the Government and desired the Government to assert and act in the direction of security of the State and safety of the people. The State Government, however, invited some persons who expressed their viewpoints, but without taking any positive steps to prevent any political mishap:

In July 1947, Mirs of Hunza and Nagar, of the Gilgit Agency, were in Srinagar. They both were Government guests, staying in a State Guest House. They were learnt to favour Independent Kashmir, may be under the suggestion or pressure of the State Prime Minister, Ram Chandra Kak. Muslim Conference leader Mohamad Ibrahim Khan of Poonch was also in touch with the State Government in Srinagar. Captain Ishan Ali of 6th Kashmir Infantry "used to bring him to the Guest House at 12 night, where secret meetings were held in Srinagar."[179] He was learnt to be prepared to support the move for Independent State of Jammu & Kashmir and not to work for Pakistan.

At the time of his departure to Hunza, however, the Mir of Hunza had shown Pakistani flags to some of his friends in Srinagar. This news spread like wild fire and reached Gilgit also. The Mir later denied it and wrote a letter to the Governor at Gilgit, attributing it to an act of a foe. As against him, Raja of Punial was very faithful and loyal to the Maharaja's State. Both these Rajas were at heart against each other for power domination.

In September 1947, Raja Fateh Ali Khan, Landlord of Khaplu, Tehsil Sakardu, an influential person in his area, went to Srinagar on a political mission. He was accompanied by Kaisar Singh of Sakardu. Both of them called on Deputy Prime Minister, Ram Lal Batra. The latter was informed about the impending wholesale attack by Pakistan on the State from different sides and routes. Khan gave him the game plan of British Government and

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[179] Brig. Ghansara Singh, Gilgit Before 1947. P. 37.

conveyed that the British wanted to convert Kashmir and its frontier area of Gilgit and Ladakh, into a buffer against Russia and China.

For achieving this sinister motive, Khan continued, the British Government was in open support of Pakistan on this point and not in favour of India. Raja Fateh Ali Khan further told the Dy. Prime Minister that the British were, as such, helping consolidation and unity of the Muslims in Chitral Gilgit, Sakardu, Kargil and Ladakh and to create their affinity through Pakistan with the Muslim belt of Russia and China. After crossing Khardamgla, Ladakh, Yarkand, Chinese Turkistan was not far away, explained Khan to Ram Lal Batra. Raja Fateh Ali Khan and Kaisar Singh wanted State Government to take some effective measures to fail this plan and retain the State territory, thus save Sakardu also. Kaisar Singh thereafter, met Thakur Nichand Singh, ADC of the Maharaja and conveyed him the information of Raja Fateh Ali Khan for communicating the same to the Maharaja for taking necessary action, which he believed, was not taken.

It appeared that the Maharaja's Government was not fully equipped, nor prepared to meet and face such eventualities. The Maharaja was neither able to lend any hope and succour to the faithful and secular Muslims, nor could save the Hindu/Sikh minority members from trauma and torture, shameful manner of killings, abduction and rape of their womenfolk and above all, forcible and whole sale conversion to Islam in Gilgit Agency and elsewhere in the State which the Pakistanis raided.

It was 1st November 1947 that Gilgit fell to Gilgit Scouts. At 2 A.M. in the intervening night of 31st October 1947 and 1st November, about 100 Gilgit Scouts surrounded the house of Governor, Ghansar Singh Jamwal. This unexpected siege and attack was led by Major Brown, Lt. Haider Khan and Subedar Major Babur Khan. The Governor awakened by the foot noise of the army officers trying to enter his room forcibly by attempting to break open his bathroom door. He picked up his revolver and told his orderly in the other room to take up rifle and his driver reached with D. B Gun. One round was fired to scare them, which they responded with firing. The Governor, his orderly and the driver started their defence from the three rooms, occupying one each.

After exchange of fire about one hour from both the sides, MMG bursts started for a short while by Lt. Haider, damaging the Bungalow. The firing continued till 4 A.M. In the morning, the Officers of Gilgit Scouts sent Mani Ram, Naib Tehsildar and Police Inspector to the Governor with a message. The attacking army Officers wanted the Governor to surrender within 15 minutes and in that case, the Governor was assured that all non-Muslims and all civil officials would be dispatched to a Battalion Headquarter of the army at Bunji "as they wanted

to establish Pakistan in Gilgit Agency only". The Governor was given ultimatum that in case he did not accept the terms offered, all the non-Muslims would be shot dead. It means (a) that in Pakistan, there was no place for Hindus/Sikhs (b) that British Officers were also against Hindus/Sikhs unreasonably and unjustifiably and (c) that they also became instrumental in genocide of Hindus/Sikhs in the State of Jammu and Kashmir! As against this, in Indian Kashmir, no such beastly things have happened, nor anybody ever thought of it. Who are the real trouble shooters is not therefore, difficult to conclude? The Governor, thereupon, sent for trusted Raja Noor Ali Khan and the Tehsildar Sehdev Singh for consultations. They requested the Governor to accept the terms and save the non-Muslims by their removal to Bunji, otherwise everything would be lost.

Apprehending something abnormal, the Governor had one day prior to this attack, contacted on phone Lt. Colonel Abdul Majid Khan at Bunji on October 30, 1947 and ordered him to reach Gilgit alongwith the force immediately. But he seemed to have been in league with Maj. Brown and others and deliberately so delayed his arrival at Gilgit, apparently till the anti Governor operations were completed by them. Lt. Col. Khan came to Gilgit, though late, but without any force, which he had left about 15 miles short of Gilgit. Had he been sincere Gilgit would not have fallen. The Governor was, in fact, awaiting the arrival of State army from the Battalion Headquarter Bunji, which had not to, due to the mischief of Muslim officers?

Helpless as the Governor found himself, he agreed to the terms. These terms, however were not honoured by the Officers of the Gilgit Scouts which constituted one and all Muslims from Gilgit Agency. The offer of safety of non-Muslims and their transportation to Bunji was all deceit and fraud.

Some days prior to this episode, Hindu/Sikh shopkeepers of Gilgit had apprehended insecurity. They approached the Governor and requested him to call a detachment of State Army from Battalion Headquarter Bunji. The Governor despite feeling himself like a dummy, being without powers, budget and resources etc. had already visited Bunji about a week before. His purpose was to see personally the Army position and strength at Bunji Battalion HQ which could be utilised at the required time. He was, however, disappointed to learn from Lt. Col. Majid Khan that the Sikh Company was not fully trained and the Mohamadan Coy under Captain Hussain Khan alone was trained. These two companies composed 6th Kashmir Infantry. Lt. Colonel Khan further apprised the Governor of the suitability of the Mohamadan Company alone for operations. The Governor had to depend, therefore, on the Mohamadan Company alone which was involved in shouting Pakistan slogans, but was not recalled and substituted by another battalion inspite of his request.

A Kashmiri Hindu Telegraph Officer at Bunji, informed the Governor secretly there that Major Sher Ali of 4th Jammu and Kashmir Infantry "joined hands with Pakistan troops" causing fall of Muzaffarabad and they had proceeded to Baramulla. The Governor had to return to Gilgit dismayed and his position was both, precarious and embarrassing.

On the fateful day, Captain Hussain Khan of 6th Infantry reached Gilgit in the morning but had left his Company at Pari, half way to Gilgit, intentionally. It was to lay ambush so that the Governor and his other persons could not escape from Gilgit. Captain Ishan Ali of the same Infantry also reached Gilgit to confirm the surrender of the Governor.

After surrender of the Governor, a Provisional Government was formed at Gilgit which included Major Brown, Captain Ishan Ali, Captain Hussain Khan, Captain Sayeed, Lt. Haider, Subedar Major Babur Khan and Walayat Ali. One local Rais Khan headed it. A British Army Officer Maj. Brown who was in the service of Jammu and Kashmir State, but had pledged support to Pakistan, worked for it and conducted military operations for it and against the State in Gilgit. It unravelled once again the British policy about Jammu and Kashmir, which has obviously been prejudicial to Indian interests and against secularism. It was a sectarian Army Government framed under the guidance of British officer, Maj. Brown with which the general public was unconcerned and unconnected. After the news of Governor's surrender and arrest spread, the people of the near by villages gathered in Gilgit and protested against this action. They were shown some slabs of detonators and falsely told that those were the hand grenades distributed by the Governor to the non-Muslim shopkeepers in Gilgit with the directions to blow up all the Muslim houses in the town. To suppress the truth has in general been the characteristics of those supporting Pakistan. They went back, not understanding the trick played by the Army, but only to realise soon the falsehood given out by the army. The public became helpless and could not do any thing in face of the army Rule.

The terms for the surrender offered by the officers of the Gilgit Scouts were not adhered to. The Muslim Officers of the State Army compelled the officers of the Gilgit Scouts to back track the promise. The new terms offered now by the Muslim officers of the Kashmir Army included "surrender of non-Muslims of Bunji garrison". They superseded and violated the first agreement of comprise, put forth a new demand and at the same time, prepared for an attack on Bunji Headquarter to crush the stationed non-Muslim army there. What a moral degradation and inhuman disposition!

The Provisional Government at Gilgit instructed the 22nd British Army Officer at Chilas, Matheson, to capture Astore and

cut off the line of withdrawal of Bunji garrison. Sikh Company of the State Army was stationed there and Matherson was himself still in the employment of the State Army. An attack was mounted on the Sikh Company at Bunji Headquarter by Maj. Brown and Captain Hussain from Gilgit side. An outpost at ganglot manned by non-Muslims, was attacked first from two sides, in the night, by the Muslim Company of 6th Infantry and Gilgit Scouts, killing Subedar Jamit Singh of 5th Infantry alongwith all of his men but one, who arranged to cross River Indus on a wooden log. The Sikh Company at Bunji, learning about surrender of the Governor and massacre at Ganglot, left the garrison to escape the attack. They found no way out as their withdrawal line was already cut off and they were consequently stuck up hungry at a hill side for over two weeks. They came back, therefore, to Bunji where they were captured and killed starved. They had even one to one fight as well. What was the fall out of surrender and how the new Government behaved? A glimpse of it is given below:

"In this Government two influences began to work: Gilgit Scout officers were in favour of Pakistan alone and not wanted to slaughter any non-Muslims. On the other hand, Mohamadan officers of the State Forces, were totally against keeping any non-Muslim alive. They wanted either to shoot them or convert them ...Thrice timings were fixed to shoot all non-Muslims, but some how or the other this was avoided by local people...All civil officials with their families were threatened. Bazar people were harassed and in general pandemonium reigned.

Major Brown ruled Gilgit and Captain Hussain became General at Bunji. He went to Astore, took over the treasury and started shooting all selected Hindu and Sikh rank and file on minor pretexts. Captain Mohamad Khan married a Kashmiri Pandit's girl. At Astore and Bunji he forced conversion. The maxim of the day was either all non-Muslims should be slaughtered or forcibly converted to Mohamadanism...........

On 3rd November 1947 flag-hoisting ceremony was performed at Gilgit in Scouts lines by Maj. Brown, where all civil officers of the State, except myself (Ghansar Singh) were called and directed to salute Pakistan Flag.

It was on 3rd November 1947 that Lt. Colonel Abdul Majid Khan and Sub Major Babur Khan came to me (Ghansar Singh), Sub Major brought one typed telegram, in which they had written charge of Gilgit was handed over to Gilgit Government etc. I refused to sign the telegram saying that I had not handed over, but it was forcibly taken over. On my refusal, I was plainly told that in case of my refusal, all non-Muslims will be shot dead...if I (Ghansar Singh) want all to be slaughtered, I may not sign and those were the instructions of the Provisional Government. Thus I (Ghansara Singh Jamwal) was forced to sign the telegram."[180]

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[180] Brig. Ghansara Singh, Gilgit Before 1947. P. P. 34-37.

The extent of betrayal of trust exhibited by the State's own Muslim Army, is not only deplorable and condemnable but shocking too. No less shocking is as to how innocent Hindus/Sikhs[181] were kept hostages with their families and held to ransom. They were either all to be converted to Islam forcibly or all to be shot dead. Does this forcible convertion or tortuous killings of innocent non-Muslims glorify Islam? The Kashmir Hindus have already suffered in the Valley much from generations long, because of such hostile fanatic and cruel treatment meted out to them. Was in those days of cruelties and coercive conversions to Islam from generations, found any thing wanting in the modern century which had to be fulfilled outside the Valley in the remote Gilgit region too? About further trends pursued and tortures inflicted upon the non-Muslims, are quoted as under:

> *"...By the end of January 1948 Lt. Colonel Bacon (former British Political Agent in Gilgit) visited Gilgit by Air. Mir of Hunza and Nagar were called before his arrival by the Political Agent. Col-Bacon met both Mirs and flew back to Peshawar the same day.*
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> *After this meeting, invasion of Sakardu started. The attack on Sakardu was originally conducted by Cap. Ishan Ali. He had at command personnel of 6th Jammu and Kashmir Infantry, Scouts and Chitvulla. Chitral sent about 1200 combatants, under Matah-ul-Malik, relative of Mehtar of Chitral. On the fall of Sakardu, lot of atrocities were committed by this man. Besides, Cap. Ishan Ali and his brother Wazir Walayat Khan started loot and murder. After the capture, Cap. Ganga Singh, along with 30 Military personnel were roped and shot... Col. Mohamad Aslam, during his stay of about six months, ill-treated most of the people of Astore...*
>
> *...Cap. Hussain Khan by now started loot and forced conversion at Astore. Messages from Mohamadans of 6th Jammu and Kashmir Infantry personnel were pouring in Gilgit to either shoot all Kaffirs or to convert them. One night, Scouts and a few townsmen started looting non-Muslim houses and shops. All shopkeepers along with their families ran away to the river bed and polo ground. Some naked and some half clothed, spent the whole winter night outside under the sky...early in the morning Khan Mohamad Aslam Khan, the Pakistan Political Agent in Gilgit came to the Bazar to see this happening. Males and females, all in tears related their woeful tales and losses*

[181] In Northern frontier area of Gilgit, in connection with the business/shops or being in various and multipurpose Government services civil/military and posted there at different places that a quite good number of Hindus/Sikhs were living there, many with families too.

sustained. Scouts took away a lot of booty to their homes. This raid was made mostly by Scouts with a few other towns men."[182]

It is surprising to note that in Gilgit Region, Government of local people was never formed or installed even for the sake of name. The attitude of the British Officers and the Gilgit Scouts as well as some other Officers who worked under the guidance of British officers, was not to merge or align with Pakistan. The commitment of these hostile elements was that they would bring there Pakistan and not to accede or join Pakistan. It is all the more astonishing and politically suspicious that Pakistan also like the Government of British India appointed a Political Agent for Gilgit Agency. A few days later Bazar Hindus and Sikhs were all converted. Beards of the old Sikhs were shaved in front of the Quarter guard of the Scouts. There was great harassment. Most of the Kashmiri Pandits out of terror, adopted Islam...They were all forced to attend the Nimaz in Gilgit mosque and to hear all the preachings. Now they could move freely in the Bazar and work on their shops."[183]

Were no Geneva Convention and other protective Convention of UNO applicable to these innocent army personnel, killed in 1947 dastardly by the hostile army after they were in custody? Has this matter been overlooked as the Western Powers were siding with Pakistan and Muslim fundamentalism, nor the victimised Hindu/Sikh had any Human Rights?

The Kashmiri Hindus, known as Kashmiri Pandits, being educated generally prefer Government service to business etc. In the name of Government service, as such, they would persuade themselves to go to any nook and corner where ordinarily, the members of other communities, would avoid to go. A quite good number of Kashmiri Pandits were, therefore, serving in the Gilgit Region around 1947, many of them staying along with families there became victims of discriminatory killings on the ground of being Hindu and the surviving rest were targetted of mental torture and coercive conversion along with families, otherwise they had to suffer physical liquidation. It was the case with every Hindu/Sikh.

In 1947, Dr. Kashi Nath Tikku of Srinagar was already posted and working as Medical officer Sakardu. He had told me that during the Pakistan aggression in 1947, many Kashmiri Pandits posted in various departments and at different places of the Northern frontier of Kashmir, were residing along with families. He also confirmed that many of the Kashmiri Pandits and their families were converted to Islam unwillingly and forcibly. He was held up there over two years when he got repatriated to Kashmir. After conversion and killings, the condition of remnant lot of surviving Kashmiri Pandits, staying in Pakistani Camp there, was very

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[182] Brig. Ghansara Singh, Gilgit Before 1947. P.P. 37-39.

[183] Ibid. P. 39.

pitiable and shameful. They were underfed and under clothed, living shabbily with bare necessities of life either not provided or irregularly provided. Himself being a professional Medico, he had extended his free medical services and consultations. As such, he was respected. Once Muslim Conference leader, Choudhry Ghulam Abbas visited their camp and made a brief but encouraging speech, Dr. Tikku narrated. Choudhry praised Kashmiri Pandits in the course of his speech, Dr. Tikku recollected Choudhry saying, "Kashmiri Pandits are indispensable and they have to co-operate with us and we will have to run jointly the administration of Jammu and Kashmir" said Choudhry Ghulam Abbas adding, *"Kashmiri Pandits have to play an important role in Pakistan also,"*[184] Choudhry Abbas further said.

Dogra Rulers of the State and the British Indian Government had, in fact, a long mutual tussle over the Gilgit region. The British generally, wanted to curb the rights of the Dogra Maharajas viz.-a-viz. Gilgit region and tried to circumscribe their activities in and beyond Gilgit.

> *"They (The British) rebutted the plea forwarded by Ranbir Singh that when Gilgit, Chilas and Astore were annexed by his father, Ghulab Singh, no notice was taken at that time, it was ungracious and uncharitable on the part of the British Government to make such infringement of the treaty a ground for interference. They also attacked and captured Shahadullah fort, on the plea that it would involve the Government of India into a war; as by the Artcle IX of the (Amritsar) treaty, the British Government was to protect the Maharaja against all external enemies, it was obvious that such little encroachments as that of Shadullah might plunge "us into a war with Turkistan, or Bokhara, or with Russia herself."*[185]

The British returned the Gilgit Agency to the Maharaja technically though much before the expiry of the lease, due to their withdrawal from India. They however, retained their influence over it and snatched it back for Pakistan. The latter has no legal competence and right to hold, occupy and rule the area like the former British Government as if it is her demised property. The illegalities should not be perpetuated in the ordered and peaceful societies.

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[184] Based on the long interview that the Author had with Dr. Kashi Nath Tikko in Srinagar.The author had again interviewed him many years back at Jammu after displacement from Srinagar. He is now no more.

[185] Madhavi Yaseen, British Paramountcy in Kashmir.,P. XVI- XVII.

CHAPTER – IX

ACCESSION AND ALLIED MATTERS

Withdrawal of British Government from India was without any guide lines to the Indian Princely States. They were left in the lurch, albeit three options were given to the Ruler of a State. Apart from him, no any other Authority, Public representative or acknowledged leader of a State was recognised under the law.[186] The options conferred on the Ruler were (1) To accede to Dominion of India or (2) To accede to Dominion of Pakistan or (3) to declare Independence. The Indian (Provisional Constitution) Order 1947 also makes it abundantly clear. The Government of India Act, 1935 was made applicable as far as possible. In the Schedule of this Order, the relevant section 6 of the Act is substituted, inter alia, as under: -

"6.Accession of Indian States (1) An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof whereby the Ruler on behalf of the State:

Declares that he accedes to the Dominion with the intent that the Governor General, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purpose of the Dominion shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion exercise in relation to the State such functions as may be vested in by an order under this Act; and

assumes the obligation of ensuring that due effect is given within the State to the provisions of the Act so far as they are applicable therein by virtue of the Instrument of Accession.." [187]

For purposes of the Indian States obviously, therefore, neither the Two Nation theory, nor the population and its religious denomination was recognised and considered of any consequence under the laws partitioning and liberating India. Maharaja or Nawab as Ruler of the State was the only and the sole legal entity and authority, fully competent in law, to exercise his discretion and option with respect to Accession or Independence. In the Indian Independence Act, 1947, the States had been given power to accede to either of the newly created Dominions. The clause (IV) of section 2 of this Act reads:

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[186] The Indian Independence Act, 1947.

[187] The Government of India Act, 1935.

"(IV) Without prejudice to the generality of the provisions of Sub-section (3) of this Section, nothing in this section shall be construed as preventing the Accession of Indian States to either of the New Dominions".[188]

It may further be noticed, that for exercise of any of the above options, the Ruler is legally not enjoined to know or ascertain the views of his subjects or even to consult their representatives. It has also not been provided anywhere in the concerned laws to give any weight to the opinion of the subjects of the State while exercising the option by the Ruler. It has also not been provided in any of these laws, to seek the opinion poll of the subjects whether any dissension was or was not there.

In regard to Jammu and Kashmir State, therefore, the power and competence to Accede to either of the Dominion was exclusively with the Ruler, Maharaja Hari Singh and none else. For all practical purposes and for exercise of any one of the three options, the Maharaja alone was, under the relevant laws, regarded, treated and deemed to be the sole competent authority and spokesman for his State. He was the only Arbiter, therefore, to take a decision or to determine the future status of Jammu & Kashmir State and to take necessary steps therefor. The only rider under the law was that execution of the Instrument of Accession was subject to the "acceptance" by the Governor General of Acceding Dominion. Once the Governor General accepted the Instrument of Accession, it was validated and approved once for all.

Being himself a lawyer of repute, the President of Muslim League and Governor General of Pakistan, Mohamad Ali Jinnah has unequivocally acknowledged and accepted this legal position. He has, therefore, always upheld this power and right of the Rulers, including that of the State of Jammu & Kashmir, and the consequent exercise of the option independently, and without reference to the people, as valid and lawful. This admitted legal position apart, what foul game Pakistan played later, to seek the Accession of the State to Pakistan, was in total contravention to the mandate of law.

Further more, the relevant laws did not admit of putting any condition on the Accession, which is irrevocable. Neither the Ruler, nor the Governor General was, vested with any such power under the laws, nor could they exercise any powers extraneous to the provisions of the laws. And any thing done in breach thereof, shall be treated redundant and non-est and shall always be deemed so. Insistence on treating as valid and lawful anything done inconsistent with or in breach of the provisions of the laws shall, therefore, be not

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[188] The Indian Independence Act, July 1947.

countenanced by the law and it has to go. In the event of not rectifying this legal error and inconsistency and the breach committed purposely or otherwise, by any beneficiary, shall annul the basis and the actions taken and the rights created and processes adopted. It shall set at naught all that was done and created including creation of Pakistan.

It is also clear that the Accession is with respect to the State and not for a part thereof. The Acceding Dominion is responsible for the defence of the State and maintaining of its territorial integrity within the Dominion Acceded, as the State's territory is that of the Acceding Dominion. In the case of Kashmir, it is India. Accordingly no body or Government has right or authority to grab or permit to grab or secede any part or portion of its territory which amounts to grabbing of Indian territory illegally. It may be Pakistan, China or any other country, this principle is applicable on equally. It was also provided under the law that in case the Ruler of a State was not able to take a decision about the Accession by or before August 15, 1947, he could meanwhile execute Standstill Agreement with both the Dominions:

To get some breathing time in view of the prevailing difficulties and conditions, the State of Jammu and Kashmir sent telegrams dated August 12, 1947, to both the Governments of India and Pakistan for Standstill Agreement. Pakistan accepted the request of the Ruler in this connection but India wanted a discussion over this matter before execution of the Standstill Agreement. India was not essentially required or needed to execute this Agreement as any void found was to be covered by the Government of India under the theory of Indian Paramountcy. Pakistan did as the principles of theory of Paramountcy were not applicable to her.

While Pakistan accepted Standstill Agreement of the Maharaja's Government but India did not as has been mentioned already. Pakistan's intentions were neither clear nor bonafide. She instead created economic blockade and other troubles in the State and finally launched aggression on the State illegally, annexing some areas of the State with Pakistan. As such, the delayed Accession to India was finalised and Instrument of Accession executed in favour of India on October 26, 1947.

It was the same common Proforma of Instrument of Accession, which the other Indian States had also filled up and signed. Some wrongly say that the draft of the Instrument of Accession executed by Maharaja Hari Singh was different from that of the other States. That is not correct. As per the Schedule attached to the Instrument of Accesssion, Defence, Foreign Affairs and Communications were the subjects initially and essentially entrusted to the Government of India. Every Indian State had to transfer these

common items to the central Indian Government as per the common format of the Instrument of Accession. On the same day, the Governor General of India, Lord Louis Mountbatten accepted this Instrument of Accession dated October 26, 1947. The Accession was final, absolute, unconditional and without any exception.

The Instrument of Accession executed by Maharaja Hari Singh, inter alia, reads as under.

> *"Now, therefore, I Shriman Inder Mahander Rajrajeshwar Maherajadhiraj Shri Hari Singhji of Jammu and Kashmir Naresh Tatha Tibbet adi Deshadipathi, Ruler of Jammu & Kashmir State, in the exercise of my Sovereignty in and over my said State do hereby execute this my Instrument of Accession; and 1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purpose of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, in relation to the Jammu and Kashmir..... such functions as may be vested in them by or under the Government of India Act, 1935, as in force of the Dominion of India, on the 15th day of August, 1947.*
>
> *8 Nothing in this Instrument affects the continuance of my sovereignty in or over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.*
>
> *9 I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successor,"*[189]

The Instrument of Accession briefly quoted herein above was accepted by the Governor-General of India, Lord Mountbatten. It made clear the following points:

a) Ruler of Jammu & Kashmir State Maharaja Hari Singh Acceded to India lawfully. He validly executed the Instrument of Accession in favour of India.

b) The Governor-General of India, Lord Mountbatten accepted this Instrument of Accession and fulfilled the requirement of law and this made it a perfectly legal and valid Accession.

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[189] Maharaja Hari Singh- Instrument of Accession executed by him in favor of India.

c) The Accession was, therefore, absolute, complete and permanent.

d) No condition of time, review etc, was incorporated in the Instrument of Accession executed by Maharaja Hari Singh in favour of India (otherwise also no such condition could be attached to it by the Ruler)

In the covering letter even dated, addressed to the Governor-General of India, sent with the Instrument of Accession, Maharaja Hari Singh briefly unveiled the sordid circumstances created by Pakistan in the State. He also stated in the letter that the State had a *"Standstill Agreement with the Pakistan Government, that Government permitted steady and increasing strangulation of supplies like, food salt and petrol"*[190] to the State. The Maharaja also disclosed to him that *"Afridis, soldiers in plain clothes, and desperadoes with modern weapons"*[191] had been *"allowed to infiltrate into the State at first in Poonch and then in Sialkot and finally in mass in area adjoining Hazara and Ramkot side"*.[192] The Maharaja bewailing the destruction of "Life, and property and looting" in the State as well as rape and abduction of women, he asserted:

> *"The mass infiltration of tribesmen drawn from the distant areas of the North West Frontier coming regularly in Motor trucks using Mansehra- Muzaffarabad road and fully armed with up to date weapons cannot possibly be done without the knowledge of the provincial Government of the North West Frontier Province and the Government of Pakistan."*[193]

The Maharaja also informed the Governor-General of India that Pakistan Radio had announced even formation of "Provisional Government in Kashmir". It may be stated here that the news of setting up then a Provincial Government in Kashmir appeared not correct and was perhaps given out with three angles: First, to encourage the Raiders and Pro Pak elements and create more enthusiasm in them. Second, to try to demoralise a large population of the State which was not in favour of Pakistan and third, to hoodwink the world on the matter of Kashmir. M.Anwar Khan explodes this myth and contested that the President declared of "Republic of Kashmir" M. Anwar, was not any known figure nor was a genuine man. He says:

> *"This name was clearly a pseudonym and the debate still continues as to the real identity of M. Anwar. I have no knowledge*

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[190] The Maharaja's covering letter dated 26, October 1947 with the Instrument of Accession.

[191] Ibid

[192] Ibid

[193] Ibid

of this person, I only know he certainly was not me! So-what was the Republic with a pseudonym President? It is also not clear whether the so-called Republic was Presidential or Parliamentary as the Cabinet members of the Republic appear to be equally anonymous...... We suggest Muhammad Anwar was a pseudonym for Brigadier Akbar Khan, a serving officer of the Pakistan Army who was later to be known under another pseudonym- that of "General Tariq."[194]

In other words, Pakistan had tried to set up its own Army rule in Kashmir in order to grab the State forcibly. The Maharaja in his letter also informed the Governor General of India that he would set up an Interim Government and *"ask Sheikh Abdullah to carry responsibilities in this emergency with my Prime Minister."*[195] Sheikh Abdullah was the main hurdle to the Maharaja to execute the Instrument of Accession in favour of India till that emergency came and the Government of India made him to give in before Sheikh Mohammed Abdullah.

While conveying his acceptance of the Instrument of Accession to the Maharaja on 27 October 1947 Lord Loius Mountbatten, Governor-General of India, said that his Government had decided to accept the accession of Kashmir State to the Dominion of India. The Governor General also expressed that according to the policy of Government of India that *"in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of State."* In view of this policy of the Indian Government, the Governor General of India informed the Maharaja that it was his *"Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invaders the question of the State's accession should be settled by a reference to the people."*[196]

The Governor General's above separate letter to the Maharaja about his acceptance of Instrument of Accession, throws light on the following points:

a) the Maharaja's Instrument of Accession was accepted by the Governor General;

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[194] M. Anwar Khan, a Critique on Incomplete Partition, P. 10, 11

[195] Maharaja Hari Singh's letter dated October 26, 1947 to Lord Mountbatten, Governor-General of India.

[196] Lord Loius Mountbatten, Governor General of India's seperate letter dated 27 October, 1947 to Maharaja Hari Singh, conveying his acceptance of Instrument of Accession.

b) As per the "policy" of Government of India, the "issue of accession" if becomes subject of "dispute" it should be decided in accordance with the "wishes" of the people;

c) After raiders are cleared from the soil of the State and the law and order in the State is restored by the Government of India, the "State's" accession would be settled by the Government of India by "a reference" to the people.

On examination, its purport is that (i) the question of reference to the people is only a Policy of the Government of India and not a legal requirement, nor a decision; (ii) The letter of Mountbatten is separate letter and not a part of Instrument of Accession which has been accepted by Governor General of India unconditionally; (iii) There was no "dispute" over Accession as the Instrument of Accession was executed by the Maharaja for the first time and there was no simultaneous challenge to the Instrument of Accession to justify the use of word "dispute"; (iv) According to the relevant provisions of the law, these all points are devoid of any legal force and not operative.

The points of Government of India are not based on a mutual agreement either, between the Governor General and Maharaja Hari Singh as the execution and acceptances of the Instrument of Accession was. "Policy" is not a legal binding; it can be changed without inhibition and it does not confer any claim or right upon the other side. This policy may have been based by the Government of India, purely on a political consideration but that doesn't clothe it with any legal sanctity. Government Policies can be changed and reframed according to the suitability and requirement of the country. Reference is made to the "Policy" of the Government and not to the promise of the Government. Therefore, the difference in the wording is essential and worth serious consideration.

It may also be noted that the execution of Instrument of Accession by the Ruler and its acceptance is a bilateral Agreement in writing and based on the principles of Law of Contract: That is, Proposal is offered and the offer is accepted, the Contract is legally complete as in the case of Kashmir Accession. No any other unilateral term or condition by either Party will form the part of the contract or affect it or invalidate it.

Moreover, one who holds out any promise or makes any commitment unilaterally, it is within one's right to withdraw also that unilaterally. This policy of the Government of India is, in fact, against the provisions of the concerned laws, as it was not provided for. As such, no quarter, circle or forum, national or international, has to rely on or can rely on what had been held out and or urged upon the Government of India for its implementation. To ask for that, is to land

one self in the realm of ignorance and to make one self subject of ridicule. The "reference to the people" is, therefore, under law simply non-est Over and above, reference does not mean essentially plebiscite, which offer the Government of India has withdrawn later. However, the leaders and representatives who framed Constitution of Jammu and Kashmir, endorsed, affirmed, acknowledged and acclaimed Accession of the State with India. It otherwise also meets the requirement of reference "to the people".

Since the Instrument of Accession and the Indian Independence Act 1947, do not provide for any scope to make the Accession subservient to any condition, wish or desire and any condition imposed shall not be, therefore, worth credit and execution. Accordingly, "reference to the people" has no legal sanctity and is, as such, liable to be ignored. The question of Accession was settled the moment the Instrument of Accession to India, was accepted by the Governor General of India. The side issues raised or emphasised are redundant and non-operative, non-enforceable. Even otherwise also "reference to the people" is very vague. Participation of the people in the elections in whatever form, quantity and extent, can also be deemed to meet this requirement.

Mohamad Ali Jinnah was also aware of the legal position that reference to people is not a legal and binding issue at all before Accession or after Accession. He always, therefore, categorically asserted and announced that the question of Accession or Independence had to be decided by the Rulers themselves without reference to the people.

> *"It was never even hinted by Mr. Jinnah that for deciding the question of accession, His Highness should consult the wishes of his people, Jinnah stood firm on the constitutional provisions of the Indian Independence Act despite India's action in Junagadh in taking the State after consulting the people's wishes and contrary to the Nawab's accession."* [197]

Reference to the people, particularly where the Instrument of Accession was unconditional, is out of question and beyond the scope and mandate of Indian Independence Act, 1947. There was no such indication found in the Government of India Act, 1935 also and the subsequent amendments made applicable in regard to the Accession of a State to either of the Dominion, India and Pakistan. Mehar Chand Mahajan again referring to Jinnah, says:

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[197] Mehar Chand Mahajan, Bhawan's Journal, December 5, 1965.

"Holding of a plebiscite to decide the question of accession of the State to any of Dominion was not the suggestion of the great architect of Pakistan and its first Governor General and to the very last, he positively held the opinion that accession made by the Ruler was final and conclusive and, consulting the wishes of the people was extraneous and collateral to the question of accession and would be unconstitutional.

The idea of plebiscite emanated from the Constitutional Advisers of the Indian leadership".[198]

The Government of India had absolutely no legal competence, authority and power to commit about plebiscite. Junagadh or no Junagadh, what law does not provide (rather prohibits) can not be lend legitimacy and legality merely on the basis of Policy. Such a policy in itself is void legally. On the basis of Policy matter, if the Power of Accession is for instance, taken from the Ruler and given to the people of the State whose opinion poll is specifically held on the question of Accession, who will sign, in that event, the Instrument of Accession and what will be accepted by the Governor General as Instrument of Accession. Again, if execution and acceptance of Instrument of Accession is done subject to Plebiscite and later, for instance, plebiscite is held and opinion is found against the decision of the Ruler, who will sign then fresh Instrument of Accession? Under the relevant law, the Ruler's declaration and sign on the Instrument of Accession and the Governor General's acceptance of the Instrument and sign thereon alone give finality and legal validity to the Accession. Not done so, there is no Accession and it shatters the whole scheme of Partition of India which goes to the root of creation of Pakistan.

The pursuance to and culmination of such process in defiance of letter and spirit of the Indian Independence Act, 1947 read with the Government of India Act 1935 with relevant amendments, amount to lawlessness and illegal seperation and conquest of territory by force.

"How could in such situations, accession be brought within the terms of the Indian Independence Act, Mahajan asks? So viewed the matter, the Accession of Jammu and Kashmir State is perfectly valid, lawful, in order and not assailable.

This being the position, there is no dispute of Kashmir and Pakistan has no legal right, power, competence and authority to hold and occupy any part, area or piece of territory of the State of Jammu and Kashmir, in

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[198] Mehar Chand Mahajan, Bhawan's Jurnal, December 5, 1965.

any form or manner. The passage of time has otherwise also, buried the question of Plebiscite under the debris of time: The office of Governor General neither survives and exists in India or in Pakistan, nor either of them is "Dominion" now, nor the Ruler exists. They had the signified legal role in the Accession. Whatever legally has so far been done, has received the finality and clinched the issue for all times to come. Pakistan should, therefore, hand over the grabbed territory to Government of India immediately.

The laws under which the Accession of Jammu and Kashmir State with India has taken place, the same laws are responsible for partitioning India and creating Pakistan. Amazingly, Pakistan follows and accepts as correct the part of the laws bringing Pakistan into being and other part of the same laws by virtue of which Jammu and Kashmir State has Acceded to India, as not correct but challengabel. Pakistan, therefore, unconsciously perhaps, assails simultaneously her own creation and existence. If Pakistan and the whole world do not reconcile to this legal reality and act on it and hands off Kashmir, then in this confusion and conflict, apprehensions of ensuing a global war are more stronger than the preservation of peace. In that event Indian people and other fair and just peoples and the countries will be within their limits to demand return and merger of Pakistan and Bangladesh territories back to India. For a legally valid Accession, accomplishment of two things are legally essential:

a) Declaration of Accession by the Ruler through execution of Instrument of Accession; and

b) Acceptance of the Instrument of Accession by the Governor General of the Acceding Dominion.

This is based on the simple principle of law of Contract. Offer of Proposal and acceptance of the Proposal culminates into a Valid Contract. If neither or either of the ingredient is present or missing, no valid contract is formed. If in the Accession, the above two elements is present, there is no Valid Contract and likewise no Valid Accession. If the intentions of the authors of the Indian Independence Act were otherwise, then instead of the Ruler of a State, people would have been empowered to decide about the Accession in a different form. Here otherwise, the Ruler becomes redundant which could not have been the intention of the British Parliament passing the Indian Independence Act, 1947.

How the issue of accession has become subject of dispute?……I protest and assert that the word "dispute" has wrongly been used in the reply letter of Lord Mountbatten. The use of word 'dispute' made here is out of context and uncalled for. As a result of confusion in the mind of Government of India this word has found

place in the letter of Lord Loius Mountbatten dated October 26, 1947. Had the vision and also concept of law clear to the Government of India or not blurred with political considerations, this objectionable word would not have been allowed to remain in the letter.

The use of this word also contributes to the misleading of the public opinion, damaging, thus, the interests and cause of India. The words "accession is subject of dispute" presupposes that the Accession has already taken place and that has been disputed on some ground. Then and then alone the Accession can be deemed "disputed" not otherwise. Where, however, no Accession had taken place till the word "dispute" was written, how a dispute on issue of Accession was then deemed to be in "existence"? Pakistan has never claimed that the State of Jammu and Kashmir had ever acceded to Pakistan. The word "Accession" has legal connotation. The State had not acceded to India till 26th October 1947.

How then the word "dispute" about Accession has been inserted in the letter of Governor General when the Accession itself was still to born? As such, the word "dispute" is irrelevant in Lord Mountbatten's letter which is otherwise also devoid of any legal force and can not be acted upon. It does not, as such, confer any right or claim upon any person or people whatsoever, much less on Pakistan. It is all political exploitation and without any basis of reality and relevance. Therefore, the Governments, Diplomats and other well informed and knowledgeable circles, quarters and foras should not be misled by it. Indian Government need to educate first, its own people as to what is true and untrue and what is the legal position and the fiction, as regards to Accession of Kashmir to India? They enjoy otherwise the ignorance about it.

The matter does not end there. It has been a diplomatic failure also on the part of Government of India which has given set back to her case and cause, occasionally though. It appears that the respective leaders in the world community also some times, stoop down very low. The concept of publicity and its value has hardly mattered with the Government of India. She has not been effectively able to disseminate truth in the world about her people, in particular to the issue of Accession and the pros and cons of the tragedy of high intentions of India. If the war is to be avoided and the peace maintained, the Indian sacrifice and the point of view has to be explained to the world and the latter has to understand it.

Let it be further clarified that Plebiscite is against the clear and express provisions of the Indian Independence Act 1947. This Act recognises the Institution of Rulers only and none else. This Act is the only constitutional and legal source from which the

constitutional authority emanates and confers powers to act, who is none else than the ruler of a State. Under the Act, there is neither any power to attach any condition to the Accession or to make the Accession temporary: Obviously, therefore, if any condition of Plebiscite is imposed or Accession is made temporary or conditional, these all superfluous things are redundant and ultra vires of the powers conferred on the Governor General of the Indian Dominion, and can be struck down by the courts of competent jurisdiction also.

About Accession under the Indian Independence Act, 1947, Mehar Chand Mahajan says:

> *"It (the Act) did not envisage conditional acceptance of accession. Accession as provided in the Act of Independence had to be immediate and could not be kept in suspense for an indefinite period of time. The offer was unconditional and its acceptance had also to be unconditional and in terms of the offer. The ultra vires proviso has to be ignored.*
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> *Mr. Jinnah on hearing the news of accession withdrew his order to march Pakistan army into Kashmir, as it had become part of the Indian Dominion."*[199]

But Pakistan sent regular army immediately to fight openly war of Kashmir, albeit did not publicly admit it in UNO Commission found Pakistan army in Kashmir much after. The Indian Independence Act 1947, did not provide for ascertaining the opinion of the people of India, whether India should be partitioned and Pakistan created? If this proposal were referred to the Indian people, the foregone conclusion would have been that with the overwhelming majority of the people, it had to be rejected outright. Not only non-Muslims in India were against the partition and formation of separate Muslim State of Pakistan, but almost all the Socio-cultural, religious and political organisations of Indian Muslims excepting Muslim League, were avowedly against it.

There was no provision under law that the creation of Pakistan was subject to Plebiscite. Without having, therefore, opinion poll on this issue and without enjoying patently support of the majority of Indian people, still unnatural dismemberment of India took place, and Pakistan came into being. The statutory source of creation of Pakistan, the Indian Independence Act, was not challenged, demand of Plebiscite was not raised (as neither creation of Pakistan was conditional under the Act, nor Plebiscite was provided for) and millions of innocent people were dislodged and displaced from

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[199] Mehar Chand Mahajan, Bhawan's Jurnal, December 5, 1965.

their homes, here and there, and lakhs assassinated brutally, young and old, male and female, being the worlds greatest holocaust and human tragedy. Unimaginable number of young women and girls were kidnapped and abducted and their parents and other kins do not know even now, their fate and whereabouts.

They live a tortuous life in their seperation, or died in trauma! None of these tragic people either asked for "Right of self determination," nor were they conferred upon such a right." That apart, there was no cry for annulment of partition, nor this colossal human tragedy of wide proportions could bring end of Pakistan and her reversion to India. The virtual creators of Pakistan, the British Government remained indifferent to all this and could not make amends to the Indian Independence Act 1947. The provisions of the Act were not thrown in the wind and on the strength and voice of suffering people, no change in conflict with the law or in isolation thereto, could be made in practice. How then, in practising of the same Indian Independence Act, read with the Government of India Act 1935 up to date, was made departure from, in certain respects by demanding certain things, neither legal nor provided for. And how the Anglo-American Block in the United Nations toed and supported policy on Plebiscite and certain other decisions against the letter and spirit of relevant law?

Can the British Government expiate India for what action did it initiate in accepting the idea of and creating Pakistan and playing with the lives, honour and property of millions of people? if for creation of Pakistan, no plebiscite could be held under the relevant laws, how then under the same laws, Kashmir's Accession could be deemed to receive finality only after plebiscite? This displays arbitrariness against India when illegality is sought to be substituted for legality, by the interested quarters and countries. The former Chief Justice of India, Mehar Chand Mahajan has said further in the matter.

> "*...the fate of the people of the State could not be left in uncertainty for an indefinite period of time, which will be the result of conditional accession. This would be very dangerous and explosive situation that is why the Indian Independence Act did not envisage or provide for any other form of accession except a conclusive and an absolute one, and made once and only once.*" [200]

Conquering the territory of Kashmir by Pakistan forcibly is an illegal act and this territory has to be returned by Pakistan to India. In consideration of the facts aforesaid, it becomes a test case for the world nations in general and the Security Council in particular.

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[200] Mehar Chand Mahajan, Bhawan's Jurnal, December 5, 1965.

Without attempting to interfere in the internal matters of India in Kashmir, the least that the World Organisation and the World Powers may do, is to redeem this territory for India and also the damage done to her and her cause, without losing any time.

Not going to the merits of the case of the respective countries, the case of Kuwait's annexation by Iraq may be referred to. Iraqs annexation of Kuwait was undone and its occupation got vacated by Western Powers by waging a war against Iraq through U.N. More area and lesser population than of Kuwait was involved in Pakistan held territory of Kashmir. As a result of Pakistan's brutal raid over the State of Jammu and Kashmir, much more people were in total, disturbed, dislodged and killed in the State of Jammu and Kashmir than the population of Kuwait was. To vacate the aggression on and occupation of Kuwait and withdraw the forces to set Kuwait free, the UNO and Western Powers promptly came in action. It was a case much later in time than that of Kashmir.

When it could be done in the case of Iraq so earnestly, why can it not be done even so late in the case of Pakistan so genuinely? Accepting the part of law bringing Pakistan into being. But denouncing and denying the action taken under the other part of the same law, for Kashmir's Accession to India, is ridiculous as much as it is punishable. In other words, Pakistan thereby denies automatically her own creation and existence. To meet the ends of justice, the World Body and other countries must derecognise Pakistan for continuing to persist in this stand against Kashmir in future also, or else return the territory to India along with that of Bangladesh, being earlier part of Pakistan and initially the territory of India. Every Indian, a sixth man in the world, asks the other five persons of the rest of the world as to when they are going to support this voice of logic and reason based on legality and justice.

"Provisions of accession are the creation of the statute and do not exist outside it. If a State is occupied by a Dominion by force, acting on the result of a plebiscite, it would amount to conquest or annexation, but not accession. This is how Pakistan is in possession of 2/5 of the State as a result of aggression."[201]

As has been seen in the preceding pages, the execution of Instrument of Accession was the right of the Maharaja under the very laws that Pakistan owed her creation and existence to. Any act lawfully done in consonance with the provisions of these laws were, as such,

[201] Mehar Chand Mahajan, Bhawan's Jurnal, December 5, 1965.

legally valid and binding on the other party, no matter, affected or benefited thereby. That is the legal purport of the scheme of the laws concerned.

The execution of Standstill Agreement with Pakistan by the State was also discretion conferred upon the Ruler by the law. It was purely an interim and stop gap arrangement till the Maharaja could decide upon declaring Independence of the State or Acceding to either of the Dominion. With taking and announcing that decision, the life of the Standstill Agreement would exhaust. But in the instant case, prior to that decision, Pakistan herself dishonoured this Agreement, defied and terminated it for all practical purposes and started raid on the State. Once the State Government levelled serious allegations of defiance of the Agreement and of economic blockade, the bilateral Agreement stood rescinded and came, to an end. Pakistan may accept it or not.

The Standstill Agreement was only for a service facility like communications and other commercial services, which did not create or confer any right or claim on Pakistan. Pakistan had advanced this argument in defence at the UN and surprisingly some writers have also toed this line of argument, which is simultaneously, illogical, politically partial and devoid of any legal force.

Another baseless argument that was advanced by Pakistan in the UN that Kashmir acceded to India at a point of time when the Maharaja had lost administrative control over Kashmir. It is not correct as elucidated above. It was simply to immune and exempt Pakistan from the heinous crime of aggression she committed. Her hands are blood soaked and is responsible and liable for total genocide of Hindus/Sikhs in 1947 in the part of Jammu and Kashmir under her illegal occupation. She has now caused the genocide of Kashmiri Hindus (Kashmiri Pandits).

The State Maharaja has had two Capitals of the State: One is Summer Capital located at Srinagar and another is at Jammu for the winter. The Maharaja saw never any collapse or surrender of these Capitals, which are the seats of governance, power and control and keep the Government authority and claim intact over the State. This State authority prevails and has power and competence to reclaim and recover the possession of the part of the State territory illegally annexed by Pakistan.

Government of India can press this demand of vacation of aggression and occupation of the territory by Pakistan, being India's integral part under the law enacted by the British Parliament. Suppose, there was no Accession at all, and the Government of India had no Powers of Paramountcy over Kashmir, can

not it then request India to help it against Pakistan to repel her aggression and occupation? The Maharaja's. Government had full control over the territory of Jammu & Kashmir State except the areas, which Pakistan had snatched under her armed action.

This apart, no right has occurred or devolved upon Pakistan to grab some areas of Kashmir and keep them under her control without any rhyme and reason. Pakistan has no Locus Standi to be in Kashmir. She has absolutely no status in Kashmir other than Aggressor and she continues to be so. She will have to vacate these areas today or tomorrow and withdraw her forces. It is amazing that the country, which has Instrument of Accession in her favour, stands in the estimation of Pakistan and her allies and other supporters, no where. But she as aggressor, deems her position perhaps as better.

It may be stated here that even without Accession, Kashmir was a semi Autonomous unit within India after August 15, 1947. In this context, even the term "Standstill" used in the relevant law, also endorses and justifies this view, inference and conclusion. This status of Kashmir could only be changed under Indian Independence Act 1947, if Kashmir had either Acceded to Pakistan or declared Independence. Nothing of the two happened. As against this, the Ruler of Jammu and Kashmir executed Legally Valid Accession under this very Act, in favour of India, making this State a full-fledged component and unit of the Indian Union. Three things, therefore, emerged very clear:

1) Accession to India was with respect to the whole State;
2) The State became full fledged part of India;
3) Pakistan became wholly an alien country with no relations to Kashmir.

Pakistan and some authors say that accession of Kashmir with India was legally not valid. The American legal opinion is also quoted in this regard which says:

> *"Execution of an Instrument of Accession by the Maharaja in October 1947, could not finally accomplish the accession of Kashmir to either Dominion in view of the circumstances prevailing at that time; the question of the future of Kashmir remained to be settled in some orderly fashion under relatively stable conditions; this question is an important element in the dispute; and...neither party is entitled to assert that rights were finally determined by the Maharaja's execution of an Instrument of Accession."*[202]

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[202]United States, Department of State, Foreign Relations of the United States, 1950, Vol. V. the Near East, South Asia, and Africa, Washington 1978, P. 1379. Alaister Lamb, Kashmir- A Disputed Legacy, P.150.

The above is the opinion of legal Adviser to the United States, States Department and is noted in February 1950. It seems to be more a political opinion based on the policy of the opinion giver's country than the legal opinion based on provisions of law and their legal interpretation. It betrays obviously either ignorance of law on the subject or disregard for the law relating to the Accession of Indian Princely States to either, India or Pakistan. No one has claimed it to be a legal opinion, as such, I should have ignored it totally. Since the opinion has come from the office of the Legal Adviser to the United States and touches the Accession and Instrument of Accession of Jammu and Kashmir in favour of India, I feel that I need to say some thing about it. It is all the more necessary in view of the following disclosure:

"This, too, it seemed was the opinion of the Legal Advisers to the British Foreign office and of the Attorney General in the Attlee Government, Sir H. Shaweross (who was particularly influenced by the legal implications of the Standstill Agreement). [203]

The legal luminaries of both the countries USA and Britain, appear to have given a casual and sweeping opinion, divorced from the factual position and legal premises but entangled in the legal quibbling as they seem to be. Both are on the same wave length. They tried to draw surprisingly, support for their opinion from the transitory measure and provisional provision of "Standstill" and not from the substantive law on Accession. In the foregoing pages, the legal aspect of the case has been unfolded and analysed, coupled with mentioning the conditions and attendant circumstances. That must furnish reply to the objections raised and opinions expressed and must satisfy the legal mind.

While dealing with the legal opinion, political opinion has no relevance. I, however, do not see any legal substance in the above opinion framed and expressed. The political and other extraneous considerations brought in focus, can neither make the opinion strong, nor become the substitute for the law. The facts not supporting law, are of no consequence. Conversely, facts must be such as to draw and attract the application of law. For legal construction of the provisions of law, the law prevails and not the political wishful thinking or the political opinion expressed.

While avoiding repetition, it is said that the Instrument of Accession was legally executed by Maharaja Hari Singh and was accepted under law by the then Governor General of India, Lord Mountbatten. Neither Maharaja Hari Singh's letter accompanying the Instrument of Accession, nor the Governor General's personal letter

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[203] Alastair Lamb, Kashmir- A Disputed Legacy, P. 150.

of acknowledgement to the Maharaja containing "where the issue of accession has been the subject of dispute" and "it is my Governments wish that, as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of State's accession should be settled by a reference to the people," do not form part of the Instrument of Accession.

As such, these letters are not legally worth taking any notice. Any opinion, therefore, framed on the basis of these letters, is wholly wrong and fallacious and are not legally entertainable. The Instrument of Accession is the only document under law, which can be taken notice of and relied upon for proving the Accession, which is admittedly proved and accepted.

Justice (Dr) Adarsh Sein Anand, retired Chief Justice of India, also clarifies the position. About the validity of the Instrument of Accession executed by the Maharaja and accepted by the Governor General of India, he says:

"This Instrument of Accession was in no way different from that executed by some 500 other States. It was unconditional, voluntary and absolute. It was not subject to any exceptions. As such, it bound the State of Jammu and Kashmir and India together legally and constitutionally. And so, regarding the legality of the accession in the judicial sense of the word there is no doubt……

The execution of the Instrument of Accession by the Ruler and its acceptance by Governor General finally settled the issue of accession of the State of Jammu and Kashmir. After accepting the Instrument of Accession, Lord Mountbatten wrote a personal letter to Maharaja Hari Singh, in reply to his letter, which had accompanied the Instrument of Accession. It must, however, be pointed out here that Maharaja's letter was no part of the Instrument of Accession."[204].

About the controversial letter of the Governor General, justice (Dr) Adarsh Sein Anand says:

"...This statement does not and can not affect the legality of the Accession which was sealed by India's official acceptance. This statement is not a part of the Instrument of Accession".[205]

The Instrument of Accession, therefore, finally settled the right viz. a viz., the future of the State of Jammu & Kashmir. One more objection though vague, about the condition for

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[204] Justice (Dr) Adarsh Sein Anand, The Constitution of Jammu and Kashmir PP. 92-93. Justice Anand, a former Chief Justice of Jammu and Kashmir State, only some time back has retired as Chief Justice of Supreme Court of India.

[205] Ibid. P.93.

acceptance of the Instrument of Accession has no bearing at all on the Validity of Accession, It reads:

"it is apparent that the actual process of accession between 24 and 27 October 1947, was manipulated by Jawahar Lal Nehru and Sardar Vallabhbhai Patel in collaboration with Sheikh Abdullah. The proposal that Sheikh Abdullah should head the Maharaja's administration after accession was imposed upon the Maharaja by the Indian leadership as a condition for the acceptance of accession and the provision of Indian military assistance."[206]

If the above narration is taken at face value, this does not even then make the Accession conditional. In the legal parlance, it has no bearing on the merits of the Accession, nor it is a part of Instrument of Accession. It could not make Accession temporary or conditional. Once the Instrument of Accession was accepted by the Governor General of India, the condition about Sheikh Abdullah, though immaterial, was washed off and the Accession received finality and the matter settled for all times to come. On the statutory finality of Accession, a former Chief Justice of India, Justice Mehar Chand Mahajan says:

"Finality which is statutory can not be made contingent on conditions imposed outside the powers of the statute. Any rider which militates against the finality is clearly ultra vires and has to be rejected."[207]

About Validity of Kashmir's Accession to India, Pakistan also tried to assail it by raising various objections in the Security Council, generally frivolous, but did not succeed. The Security Council proceeded on the fact that the Accession of Kashmir with India had taken place. That apart, they had their own politics, policies and considerations. Lord Mountbatten and other concerned also had admitted the validity of Accession, though Mountbatten was not in favour of Kashmir's Accession to India.

"The legality of the accession is beyond doubt...it should be stressed that the accession has complete validity both in terms of the British Government's and Jinnah's expressed policy statements".[208]

In view of the legal position and validity of the accession of Jammu and Kashmir with India, as explained in the preceding pages, the Security Council had no authority and power to pass a resolution in 1949, to decide the Accession of the State by holding plebiscite (subject to fulfilment of certain conditions) in the State of Jammu and Kashmir. The

[206] Justice (Dr) Adarsh Sein Anand, The Constitution of Jammu & Kashmir.P.153
[207] Ibid. P. 94.
[208] Camp Bell Jhonson, Alan, Mission with Mountbatten, P. 225.

Security Council was neither competent, nor supposed to act in a manner as if to sit in an Appeal over and against a process of law forming the act of the British Parliament, liberating and partitioning India. Accession was to comply with and complete the requirements of the Indian Independence Act, 1947 and the 1935 (updated) Act of Government of India. This question of Accession, therefore, could not be and can not be reopened even by UNO.

By doing so the UNO and its Security Council converted themselves into law breaking Agencies, particularly violators of International law and not upholding the system of law. It amounted to extreme high-handedness in scuttling the law and the due process of the law with respect of the one part and accepting the harsh part of the same law in favour of the other who sought dismemberment of India against the wishes of overwhelming majority of the people, causing a greatest multidimensional human tragedy in the world. The decision of Plebiscite was legally void, though it was not held for non performance of her obligations by Pakistan.

Giving his opinion about the question of Accession and the Plebiscite Resolution passed by the Security Council. Justice, Mehar Chand Mahajan says:

"The resolution in my opinion has no validity and binding force. It is in excess of the powers conferred by its (UN) charter to the Security Council. The Security Council is not a Tribunal having jurisdiction to decide political questions or questions which concern the domestic matters of the State. The question of Accession of a State had to be determined by the provisions of the Indian Independence Act and not by the Resolution of the Security Council.[209]

The only document relevant to the accession were the Instrument of Accession, says a former Chief Justice of India, Justice Adarsh Sein Anand, and the Indian Independence Act and as the Constitutional documents did not contemplate any conditions, there can be no question of the accession having been conditional.

Justice (Dr) Adarsh Sain Anand cites the instance of Mexico, raising a claim over Texas and objecting to its annexation by United States of America. On the request made by the Government of Texas to the America Government to annex Texas, which it did by a joint resolution of the American Congress. Mexico opposed the joint Resolution of USA. They clarified the position and set the controversy at rest. Justice Anand says:

"It is interesting to note that the accession of Kashmir to India is analogous to the annexation of Texas by the United

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[209] Justice Mehar Chand Mahajan, Bhawan's Journal, December 5, 1965.

States of America. When Mexico seperated from the Spanish Empire and set up an Independent Republic, Texas was an integral part of the new State. Later, Texas revolted against the Mexican authorities and established itself as an independent entity. The independent status of Texas was recognised by the United States of America and the principal powers of Europe. In 1844, the Government of Texas, threatened by the menace of predatory incursions from Mexico, requested the Government of the United States of America to annex the State. This proposal was sanctioned by the America Congress in a resolution in March 1845. After this America sent army to defend the Western frontiers of Texas. The Government of Mexico strongly protested against this as a violation of the right of Mexico and diplomatic intercourse between the two Governments was suspended. The Mexico protest evoked the following reply from the Government of the United States of America:

The Government of United States did not consider this joint resolution as a violation of any of the rights of Mexico, or that it offered any just cause or offence to its Government; that the Republic of Texas was an independent power, owing no allegiance to Mexico, and constituting no part of her territory or rightful sovereignty and jurisdiction."[210]

Justice Anand has expressed that no allegation of fraud and force was asserted in annexation of Texas by America and this allegation "can not be substantiated in the case of Kashmir either", says the former Chief Justice of India.

It has not been politically sound to have put everything at stake by the Government of India, for the sake of Sheikh Mohamad Abdullah and his National Conference. For them, the antagonised and politically liquidated Maharaja Hari Singh, a great Indian patriot, has led Kashmir to the position of sufferance and ultimately ousting the Hindus from their home, virtually throwing them on the roads and streets of India. Government of India from the start, bungled about accession, which had caused further detrimental delay in the Accession, only for Sheikh Abdullah, his dynasty and his National Conference. In view of this fallacious approach to Kashmir and Kashmir's Accession to India, Justice Adarsh Sein Anand expressed it in his own way in the following manner:

"The Maharaja knew that the Government of India was more interested in power being given to the people's representative than in the accession of the State to India..."[211]

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[210] Justice A.S. Anand, Constitution of the Jammu and Kashmir. P.97, Moore, J B, Digest of International Law, Washington, 1906, Vol. I. P. 277
[211] Ibid P.97.

CHAPTER – X

INDIA COMPLAINS TO UNO

There was no let up in Pakistan's aggression mounted against the State of Jammu & Kashmir. With Kashmir's Accession to India, duty was cast on the Government of India to repel the aggression and restore peace and harmony in the State. Complexion of the armed confrontation between Jammu & Kashmir State and Pakistan changed. A new dimension was added to the conflict. Although aware of her legal obligations and duties and confident of her army's superior skill, yet India was keen on cessation of hostilities with Pakistan. India, therefore, adopted reconciliatory posture and wished Pakistan to withdraw her raiders, which was not to be. As such, Prime Minister of India sent a telegram dated 31st October 1947 to the Prime Minister of Pakistan. The telegram reads:

> *"I have no doubt that you realise that the raiders from the Frontier Province or along the Murree Road come from Pakistan territory and it is the easiest thing in the world to stop them at the two bridges which connect Pakistan territory to Kashmir. They were not so prevented and their equipment and arms including artillery and automatic weapons bear witness to every help being given to them. We are credibly informed that regular officers of the Pakistan army are advising the raiders. Even now it should be easy for your Government to stop the passage of these raiders or their supplies to Kashmir territory completely."*[212].

Nehru had suggested some easy alternatives to see the end of hostilities, conflict and conflagration. But it was not acceptable to Pakistan. Jawahar Lal Nehru and his Government alone could not achieve this objective unless Pakistan Government also willed it. In order to throw light on the facts and to ease the situation, he immediately went to make Radio broadcast. He said:

> *"We have a right to ask the Pakistan Government how and why these people continued to come across the Frontier Province or West Punjab and how they have been armed so effectively. Is this*

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[212] Prime Minister of India Jawahar Lal Nehru's telegram to Pakistan Prime Minister, Liaqat Ali Khan dated 31st October 1947.

not a violation of fundamental law and an unfriendly act towards a neighbour country?"[213]

In his best attempt to prevent the deterioration in mutual relations, Jawahar Lal Nehru, Prime Minister of India again telegraphically desired Prime Minister of Pakistan to come round and to give up violence and violent attitude by stopping the raiders under Pakistan's control or else India would deal with them in their own way. The telegram, inter alia, reads:

"The raiders are either under your control or they are not. If they are under your control, you should withdraw them and in any event stop them coming through Pakistan territory into Kashmir. If they are not under your control and you can do nothing to stop them then surely we are entitled to deal with them as we think best"[214]

It was clear that Pakistan did not want to commit anything, nor even to contradict Nehru. The Pakistan Prime Minister and his Government might have been examining the Kashmir situation afresh in the back drop of new developments and planning as to what stand could be taken by them. Jawahar Lal Nehru rushed to the Constituent Assembly and apprised the members of the latest position with respect to Kashmir, Prime Minister said among other things:

"We have sufficient evidence in our possession to demonstrate that the whole business of the Kashmir raids, both in Jammu province and in Kashmir proper, was deliberately organised by high officers of the Pakistan Government. They helped the tribesmen and ex-servicemen, to collect, they supplied them with implements of war, with lorries with petrol, and with officers. They are continuing to do so. It is obvious that no large body of men could cross Pakistan territory in armed groups without the good will, convenience, and active help of the authorities there. It is impossible to escape the conclusion that the raids on Kashmir were carefully planned and well organised by the Pakistan authorities with the deliberate object of seizing the State by force and then declaring accession to Pakistan".[215]

Pakistan denied allegations levelled by India subsequently and threw the blame on Maharaja Hari Singh whose alleged policy of suppression, according to Pakistan, caused revolt in his Muslim subjects against him. This was only a baseless counter by Pakistan against Indian allegations based on truth and facts. Pakistan further suggested to hold referendum under some International Forum. Nehru prepared a reply

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[213] Jawahar Lal Nehru's Radio broadcast on November 2, 1947.
[214] Nehru's telegram to Pakistan Prime Minister dated Nov. 8, 1947.
[215] Jawahar Lal Nehru's speech in Constituent Assembly of India on November 25, 1947.

letter dated 22nd December 1947, addressed to the Pakistan Prime Minister, who came to Delhi and Nehru personally handed it over to him. Nehru requested him to deny Pakistan raiders access to and use of Pakistan territory to operate from there. However, India made the things clear and stressed in the letter that India wanted to live in friendship with Pakistan.

The letter purported to suggest and convey to Pakistan, in no ambiguous terms, the formal request of India to stop all military and other supplies and aid to the raiders. In case there was no adequate response, India would be compelled to take necessary action consistent with U.N. Charter to protect their interests and to discharge their obligations to the Government and people of Kashmir. Pakistan, however, chose not to reply India's this letter and maintained silence over the suggestions/proposals made therein. India was, therefore, compelled to think about taking any stringent measures against Pakistan. But Governor General of India Lord Loius Mountbatten persuade Prime Minister Nehru to file the Complaint in UNO. Nehru had got Mountbatten appointed as Governor General of India. As such, he had influenced on Prime Minister. The Government of India, Therefore, approached the UNO and made its complaint against Pakistan under Article 35 of the Charter of UNO.

> *"The swearing in of Mountbatten, as the first Governor General of the dominion of India, did not particularly enthuse us, but we accepted it because Nehru supported it... our armed forces succeeded in driving out the invaders from the outskirts of Srinagar to Uri (50 miles south). We could have driven them completely out of this State, but Mountbatten persuaded Nehru and his Cabinet to refer the question of Pakistan's aggression in Kashmir to the United Nations"*[216].

This Complaint to the Security Council created many obstructions for India than redressed grievance. It ultimately proved harmful to the Indian Nation and caused sufferance to the people. It prolonged the complaint without giving proper relief to the Complaint, UNO has indefinitely brightened the chance of a disastrous nuclear war between India and Pakistan by aggravating the situation. The Indian Representative transmitted to the President of Security Council, the Indian Government's telegraphic complaint dated January 1, 1948, against Pakistan. The Security Council was informed through this complaint that the text of the complaint was being telegraphed to the Government of Pakistan also.

Referring to the Article 35 of the Charter of United Nations, India in her long complaint enumerating various facts said

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[216] T. N. Kaul, Reminiscences PP. 1 35-36.

that such a situation existed *"between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North-West, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India".*[217]

The Government of India was receiving reports, from the "middle of September 1947" about the *"infiltration of armed raiders into the Western parts of Jammu province of the Jammu and Kashmir State,"* the complaint said-

"On 24, October, the Government of India heard a major raid from the Frontier Province of the Dominion of Pakistan into the Valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people and proceeded along with the Jehlum Valley road towards Srinagar, the summer Capital of Jammu and Kashmir State", the complaint stated adding further, *"Intermediate towns and villages were sacked and burnt, and many people killed,"* the complaint said and continued, *"the position on the morning of 26 October was that these raiders had been held by Kashmir State troops and part of the Civil population who had been armed at a town called Baramulla.*

Beyond Baramulla there was no major obstruction up to Srinagar. There was immediate danger of reaching these raiders Srinagar, destroying and massacring of large number of people, both Hindus and Muslims. The State troops were spread out all over the State and most of them were deployed along the Western border of Jammu province. They had been split up in to small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officals had left the threatened area and the civil administration had ceased to function," the complaint Stated.

The complaint also said,

"Events moved with great rapidity and the threat to the Valley of Kashmir became grave. On 26th October, the ruler of the State, His Highness Maharaja Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organisation in Kashmir, the National Conference, headed by Sheikh Mohamad Abdullah. The Conference further strongly supported the request for

[217] Extract from Indian complaint filed in UNO against Pakistan on January 1st, 1948

the State's accession to the Indian Dominion. The Government of India were thus approached not only officially by the State authorities, but also on behalf of the people of Kashmir, both for the military aid and for the accession of the State to India," the complaint added.

The complaint further said,

"The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. It was imperative on account of the emergency that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a Government capable of discharging it. But, in order to avoid any possible suggestion that India had utilised the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognised democratic method of a plebiscite or referendum which, in order to ensure complete impartiality might be held under international auspices."

From the middle of this para, the contents are not only extraneous to the complaint but also mitigate the intensity and earnestness of the complaint. It makes it a less of a complaint and more of an admission. It was like inviting India a place in the "Dock" to plead innocence rather to assert and stand by the truthful accusations. This does not give a good account of political leadership that ruled the country, nor of the Advisors and the bureaucrats who drafted the Complaint. It was a complaint, pure and simple and not a Policy Statement of the Government of India. It has virtually hit the Kashmiris in general and the non-Muslim minorities in the State in particular. It has the potential to destabilise the minorities in whole of India. The Hindu minority from the Valley have already been hounded out of their homes nearly after half a century of Indian Independence and are scattered on the streets of India as hapless refugees in their own country. The rulers and architects of modern India might not have even the remotest idea of the repercussions that the innocent people would have to suffer, from their reckless utterances and performances. It is draining out Indian resources which adversely affects the fate of a common man in the country.

India added the reason to the complaint for giving assistance to the State of Jammu and Kashmir. The complaint said,

"The Government of India felt it their duty to respond to the appeal for armed assistance because:

1) They could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations;

2) The accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State," the complaint said.

The complaint further says'. *"The intervention of the Government of India resulted in saving Srinagar. The raiders were driven back from Baramulla to Uri and are held there by the Indian troops. Nearly 19,000 raiders face the Dominion forces in this area,"* the Complaint said.

About Western and South Western border of the Jammu and Kashmir State the complaint also said, "It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot and the abduction of women, continue. The booty is collected and carried over to the tribal areas to serve as an inducement to the further recruitment of tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100, 000, have been collected in different places in the district of west Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistan Nationals. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped, and transported to the territory of the Jammu & Kashmir State with the help, direct and indirect, of Pakistan officials, both military and civil," the complaint said.

In view of the facts contained in the complaint, the following conclusions have been drawn and pointed out:

"{a} That the invaders are allowed transit across Pakistan territory;

{b} That they are allowed to use Pakistan territory as a base of operations;

{c} That they include Pakistan nationals;

{d} That they draw much of their military equipment, transportation, and supplies (including petrol) from Pakistan;

{e} That Pakistan officers are training, guiding and otherwise actively helping them."

After these conclusions drawn and mentioned in the complaint, the complaint treats the various actions committed as Aggression: the complaint says:

"More than once, the Government of India had asked the Pakistan Government to deny to the invaders the facilities which constitute an

act of aggression and hostility against India, but without any response," the complaint said and added further, "Indefinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. The Government of India have no option, therefore, but to take more effective military action in order to rid the Jammu and Kashmir State of invader."

The people of Jammu and Kashmir are the worst sufferers of Pakistan Aggression. The evil intentions of Government of Pakistan find manifestations in different ways and forms. The current cross border terrorism by Pakistan is also one of its forms. The aggression still persists nevertheless, prolonging the people's "agony".

The complaint hinted that the Indian forces would have to enter the Pakistan areas for expelling the invader and eliminating the chances of fresh attacks by the raiders. The complaint also said:

"Indian troops will have to enter Pakistan territory; only thus could the invader be denied the use of basis and cut off from his source of supplies and reinforcement in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under international law, to send their armed forces across Pakistan territory for dealing effectively with the invaders."

In the complaint, the Government felt justified in requesting the Security Council to ask the Government of Pakistan:

1) To prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;

2) To call upon other Pakistani nationals to desist from taking any part in the fighting in the Jammu and Kashmir State;

3) To deny to the invaders:

a) Access to any use of its territory for operations against Kashmir,

b) Military and other supplies,

c) All other kinds of aid that might tend to prolong the present struggle.

Before closing the complaint, India has made it clear to the Security Council that

"military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self defence, reserve to themselves, the freedom to take, at any time when it may become

necessary, such military, action as they may consider the situation requires,"

the complaint said. In the initial para of the complaint also, the Government of India has requested

"the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled in self defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace," [218] India's complaint said.

The important excerpts have been quoted from the complaint filed by India against Pakistan and her raiders for attention of the readers. It has purposely been reproduced here extensively so that they can compare it with the relevant narrations made and contents given in this book elsewhere, enabling readers to draw their own inferences and conclusions:

Keeping the whole background in view, it is a strong complaint, and a detailed one. It reveals much, conceals a little and strikes at something.

The Governments have to be cautious, it is true, and conduct with restraint. They are not all free as one may think. They have self-imposed limitations and restrictions. The rulers may be unfair unto themselves but they should not be so to the nation and the country. It may happen where the rulers ignore the realities and pursue their own cryptic policy bordering hypocrisy. The complaint presented by India to the Security Council about the Indo Pak conflict on Kashmir, is the most important document before the World Body. The contents in the body of complaint comprise narration of facts, events and situations occurring in succession between the two neighbours at logger head's, India and Pakistan. The Government of Pakistan involved the Government of India in unabated armed conflict without vacating Aggression.

The UNO did not deal with the complaint of India properly, slackened in discharge of duty due to partisan role of Western Powers who tried to equate the position of Aggressor and the Aggressed. India's case is just different, serious rather alarming. On political basis: It is a conflict and confrontation between two ideologies. One gained upper hand and was pushed up by Pakistan, sought elimination of non-Muslims from the land that the Pakistani intruders and army personnel trampled over. On humanitarian basis:- India is facing extreme type of terrorism under the false

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[218] Complaint filed by India against Pakistan, in the Security Council (UNO), on January 1st, 1948.

cover of Jihad, imposing tortuous death on the non-Muslims whom they called Kafirs (infidels) who could be pardoned to live but only after conversion to Islam. That is why in whole of Pakistan occupied and so called "Azad Kashmir", not a single Hindu/Sikh family has been allowed to survive and live there as Hindu/Sikh. If Red Cross or any other International Organisation / Forum or UNO, itself show or locate any such Hindu/Sikh family in whole of Pakistan occupied Kashmir, I would like to be informed and be obliged. Even in Pakistan herself millions of Hindu/Sikh inhabitants were thrown out of Pakistan territory after killing and converting a substantial number of these innocent "infidels".

This was done under the planning and policy of Muslim League Government. On legal basis:- The Instrument of Accession executed by His Highness Sir Maharaja Hari Singh in favour of India is lawfully executed document. Accession of Jammu and Kashmir State to the Dominion of India is, therefore, legally valid Accession. It is sad that the Government of India had in the complaint shown inclination to hold plebiscite after the soil was cleared of the raiders and law and order rested. This was against the law and the purpose of execution of Instrument of Accession, so unauthorised without legal mandate and non-operational. The "Accession" neither was nor is conditional, nor liable to be reopened nor Prime Minister of India or any other Authority has right to attach it any condition, nor can it be subjected to any contingency. I wonder whether the Government of India had to file a complaint against Pakistan regarding aggression in Kashmir or they had to announce to the world their judgement on Kashmir. With the ICS steel frame of bureaucrats in the Government of India, they had chosen to blunt the sharp edge of Indian complaint with the announcement of policy judgement therein, which is very unfortunate. This Himalayan mistake, though devoid of any legal force is not appreciable.

The United Nations has been responsible for breach and defiance of provisions of law, direct and indirect, and the consequences flowing therefrom, which had originated the complaint. Fairness and justice, require honest implementation of and compliance with the provisions of Indian Independence Act 1947 and not imposition of dictates and direction flouting the same. The United Nations Organisation failed to do it and took purely a political decision about Kashmir, thrust it and created confusion worst confounded. It did not attempt to curb, deter and compel the peace breaker and aggressor- Pakistan to vacate the areas grabbed and restore the same to India. The least UNO was expected to do on the complaint of India was to take clear stand against the aggression of Pakistan in consistent with the provisions of Indian Independence act, 1947.

The UNO was under the influence of Anglo American Block. British had to wind up in India and the rancour against

India was fresh in their mind. They had provided ample proof for sympathy with Muslim League and Pakistan before and after they vacated India. This Block was not, therefore, fair to India as Britain had then more influence on American policy.

"At that time US policy towards the Sub-continent was guided largely by Britain's policy-unlike today, when it is the other way round. However, the policies of Britain and the USA- or for that matter of any well-established country- are based on their own national, regional and global interests. We soon found to our cost, that inspite of our affinities with Britain and the West, their attitude on issues of vital interests to us, such as Kashmir, was hostile".[219]

Our armed forces might have cleared more areas from Pakistan occupation, though difficulties of reinforcement and supplies were there as Lt. Gen Kulwant Singh had pointed out. But the complaint of India to UNO gave a break to India from proceeding further as UNO openly supported Pakistan, without redressing India's grievance. The complaint by India to UNO was used by the Western Powers there against the interests of India

"The newly created dominion of Pakistan, with Jinnah as its first Governor General, tried through intimidation, infiltration coercion and force to grab the State of Jammu and Kashmir, in September-October 1947".[220]

Britain and America took a pro-Pakistan stand in United Nations. It was against the principles of equity, political morality and logic, let alone law.

"Britain and the USA were taking up a pro-Pakistan and anti India posture, on the question of Jammu and Kashmir. The Soviet Union was neutral. Nehru did not like this. So his thoughts again turned to Asia. He thought of befriending China, as a possible alternative course that might deter both the West and Russia from dominating Asia.".[221]

The Legal Advisor/Attorney General office in America and England, were afforded a chance to express a vague and unplausible legal opinion. If one advances a wrong notion of law purely on political considerations, that does not mean that the law was bad defective and not capable of giving the relief that it was bound to dispense. As against Pakistan, the Government of India believed in Secular Democracy,

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[219] T. N. Kaul, Reminiscences- Discreat and Indiscreat. P.135-36. An ICS, T. N. Kaul was Ace Diplomat of India. He was Indian Ambassador in various countries including Russia and China. He was Dy. secretary-general of Indian Delegation to UNO and also Foreign Secretary of India.

[220] Ibid

[221] Ibid. PP. 141-42.

as such, made the provisions of the relevant laws subservient to the norms of democracy which they could not do, nor should be deemed to have been done. In her overzealous fervour, for democracy and democratic sprit and norms the Government of India, however, overlooked the provisions, purport and mandate of law which should not have been done. The provisions and terms of law ought to have been upheld and not the democratic norms, inconsistent with the law. If it was done, the duty of the implementing and conciliatory Agency/Forum was to serve as corrective and comply with the terms of the law. That would have vouched the security in the region and attained and maintained peace and rule of law. Not done so, contributed to negation of rule of law and to work for disorder than law and order. This has been a great disservice to the United Nations and flagrant contravention of the aims, objects and ideals set by it, which has caused and justified its birth, existence and continuance. In the alternative; it was to lose its purpose and meaning and is likely to degenerate into an Institution standing for snatching

In the United Nations, Pakistan received full but undue support, undeservedly, from the Anglo-American Block. Arbitrarily and against the mandate of law, a resolution was passed about holding of Plebiscite in Kashmir to know the will of the people about the Accession. It was action taken against India.

UNO purposely overlooking aggression by Pakistan in regard to Kashmir, tried to convert the simple complaint of India into a broader issue of India and Pakistan. Thereby dropping as it did, the main and the only issue of aggression of Pakistan and vacation thereof. A genuine complaint of India got lost and she was, so to say, imposed with a liability, unjust, unwarranted and not at all asked for as a relief.

> *"Nehru preferred the path of peaceful settlement to continuation of the war. So we lodged our complaint with the UN against Pakistan's aggression as an act of faith in the UN-Charter and on the advice of our Anglo-American friends. However, we were soon disillusioned. We found that the American and British delegates tried to enlarge and complicate our simple complaint against Pakistan's aggression by naming it as the 'Indo-Pak question' thus equating the aggressor with the victim of aggression."*[222]

Jinnah did not agree to referendum in connection with his demand for Pakistan. Even then those at the helm of affairs at the relevant time, brought into being Pakistan. When Accession of Jammu and Kashmir was made with India under the provisions of the same Indian Independence Act, 1947, this valid law was purposely ignored and in

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[222] T. N. Kaul, Reminiscences- Discreet and Indiscreet, P. 137.

departure to the past undemocratic approach and behaviour, the new democratic method, against upholding and respecting the decision of Accession taken in consonance with the law, for holding Plebiscite was thrust by the world's greatest revered and needed Body UNO, which is a ray of hope for the afflicted countries and the suffering human beings. In view of the verdict of the UN, the necessary corollary is that Pakistan has no legal existence and she was not brought into existence as no Plebiscite or Referendum was held therefor. With the Accession of Jammu and Kashmir to India, the existence and survival of Pakistan is linked up, because both the acts are result and performed under the same law of Indian Independence Act, 1947. If by an arbitrary opinion, Kashmir's Accession needs Plebiscite, in the same way, Pakistan's creation also needs Plebiscite. If the Accession part of the Indian Independence Act, 1947 is not worked upon, regarded valid and operative by implication of the UN decision, till then Pakistan's existence, in fairness to all, needs to be recognised by UNO and discontinued her membership of UNO. She should in that event, hand over power to the Indian Government and no notice may be taken on any of her utterance, assertion or grievance. This is a test case for impartiality as well as dispensation of fairness and justice and showing respect by the UNO for Rule of Law as well as upkeeping peace in the world.

After India filed complaint with the Security Council under Article 35 of UN Charter, about Kashmir situation, Pakistan chose to deny in reply every material fact. She did not even admit and acknowledge that the Pakistan territory was used as a base by the raiders to infiltrate and invade the State territory after they were despatched to Kashmir fully equipped. The Pakistan Government also denied emphatically that they *"are giving aid and assistance to the so called invaders or have committed an act of aggression against India. On the contrary and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal infiltration by all means short of war."* Taking UNO lightly and speaking a blatant lie there the Pakistan Government has in short, denied every allegation levelled by Indian Government against her, including imparting military training on the infiltrators, fully equipping them, and arranging for their supplies, transportation etc.

The role of Delegations of Britain and USA in UN was against India. They were supposed to have the information about Pakistan's raid. Their representatives in the Security Council, Phillip Noel Baker and Warren Austin respectively, gave some sting on Kashmir during the course of their discussions, arguments and debate:

"Now it is a fact that the communications passed between the British Commander-in-Chief in Pakistan, on the one hand, and the British

Commander-in-Chief in India and the British Supreme Commander, on the other on 25 October 1947, at the Defence Committee, under the Chairmanship of Lord Mountbatten, then Governor General of India, General Lockhart, C-in-C of India, read out a telegram from the headquarters of Pakistan army stating that some five thousand tribesmen had attacked and captured Muzaffarabad and Domel, both in Kashmir and that considerable reinforcement could be expected. It is improbable that British Commander-in-Chief, while keeping each other informed about major military developments on the subcontinent were withholding such information from the war office in London or Whitehall through the respective British High Commissioners. Similarly if Sir George Cunningham, Governor of North West Frontier Province in Pakistan, could write to the British Commander-in-Chief of India, surely he must have reported the tribal incursions into Kashmir to the British Government."[223]

How did it lie in the mouth of Pakistan Government and her Delegation Chief to the Security Council, to deny every charge of India in the light of above facts? *"The unqualified denials by Zafrullah Khan were thus intended to deceive the Council, since he had withheld information of vital importance."*[224]

Phillip Noel Baker, while speaking in the Security Council on January 24, 1948, expressed some sort of surprise about Kashmir issue and said, *"To my mind the process of causation is still wrapped in mystery."* He sidetracked the issue of aggression made by Pakistan on Kashmir and asked the Indo-Pak Delegations as to why to fight the war. He suggested that the alternative to the war was agreement in the Council. Noel Baker was then Secretary of State for the Common Wealth and the United Kingdom and was supposed to know the truth about Kashmir's Accession to India and Pakistan's aggression on the State, taking heavy toll of innocent people of the State. "It is only by agreement," Baker stressed and said, *"that the Government (of Indo Pak) can avert common dangers which threaten them both"*. He suggested to the President to see what agreement between the parties could be arrived at and had a proposal prepared for same. It was to cover Plebiscite. It was supported by the representatives of China, France, Canada and Syria.

This is how the British Government accorded no consideration to the grievance of India and highhandedness of Pakistan. Instead of justly advocating for securing India's position in the State of Jammu and Kashmir and asking Pakistan to vacate the aggression and proposing to put all such evacuated areas under the direct control of India,

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[223] B. L. Sharma, The Kashmir Story. P. 16.

Britain cooked up entirely a different case and with unjust imposed solution not asked for by India.

In the same vein were the arguments and suggestions advanced by Warren Austin, representative of USA. He emphasised on creation of the conditions by India and Pakistan, conducive for holding a *"fair plebiscite" and arranging for "an interim Government that is recognised as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair."*

Canadian representative, Gen. Mc Naughton also toed the same line and suggested that the discussion ought to be continued under the President so that an agreement is reached, fighting terminated, an impartial Authority installed and plebiscite plan devised.

According to the speech made by Pakistani representative Zafrullah Khan on January 17, 1948 he had suggested to have the new joint Administration for Jammu and Kashmir under the two joint Governor Generals run through United Nations. He also urged for setting up an impartial agency to ensure the exercise of free choice by the State people whether to accede to India or to Pakistan. Dubbing Indian troops as foreign the Pakistani representative wanted an assurance that all foreign troops would withdraw from the State.

How brazen facedly Pakistan representative accepts the provisions of the Indian Independence Act, 1947 as correct so far as creation of Pakistan is concerned? But in the same breath, he impliedly denies the validity of other provisions of the same act regarding powers and options of the Ruler like Maharaja Hari Singh of the Indian States about Accession, and so his Accession to India as not lawful. It boils down to that. The most shocking to the human intelligence, sense of justice and law, is that the World's august and revered Body UNO is cherishedly listening to him and by and large, siding with him against India without any qualms of conscience.

In fact, the French representative had urged the vacation of foreign troops from the State of Jammu and Kashmir State. Indian troops were interpreted to be the foreign troops. One French representative had also demanded establishment of impartial administration to guarantee exercise of free vote to the people of the State regarding the choice they want to accede.

The tone and tenor was set by the representatives of the Anglo- American Block in the Security Council which threw to the wind all norms of justice and fair play and disregarded utterly and violated openly

[224] B. L. Sharma, The Kashmir Story. P. 16.

the inscriptions of law as well as mandate and sanction of law. These "learned and sagacious" representatives, showed extraordinary and unique concern, exhibited extreme interest and became highly vociferous about the Jammu and Kashmir State. Their stand was not apparently for upholding, asserting and vindicating the rule of law and justice but for thwarting and subverting the process of law and justice, its implementation as well as materialisation of the hopes it had created. And certainly not for discarding the massacre of innocent human beings, loot, arson, kidnappings and abductions, rapes, threats to life, honour and property of the peace lovers and law abiders and not for attempts to restore law and order and peace! Pakistani representative was thereby encouraged to say and speak anything and everything under the sky, truth, untruth and false. It appears that as if Anglo-American Block had filed a joint complaint to immune the defaulting country, Pakistan, from the charges and India was put to dock instead! It was not a healthy trend and attitude from any stand point of view, shaking in it confidence of victimised countries and nations. The result is that after lapse of even so much time the genocide of Kashmir Hindus is committed and thrown out in exile forcibly, snatching their home.

The existence and continuation of UNO is an imperative need of the mankind, nevertheless. No serious notice was taken of the arguments advanced before the Security Council, by the Indian representative Gopalaswamy Ayyanger. The Council, however, rushed to pass a Resolution on 17th January 1948, indicating working of its mind. It called upon both the Government of India and of Pakistan to take immediately "all measures within their power calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which aggravate the situation." The resolution cast further duty on both the Governments to *"inform the Council immediately of any material change in the situation which occurs or to either of them to be about to occur while the matter is under consideration by the Council."* The resolution said.

The Resolution did not augur well. It was the first set back to the world's largest Parliamentary democracy thy name is India at the hands of world's highest monopolised Body, thy name as UNO. The country having by and large independent, efficient and strong judiciary, was given a new-sermon on law and justice by the worlds highest Body, underlining diplomatic bout and inkling for despotic dispensation. A legal distance to be maintained between the complainant and the accused shrank into equality, leaving nothing for the world to know who was what? This changed automatically attitude and approach to the grievances expressed and situation depicted by India.

"Though tragic in its consequences, the situation as it developed in the Council was not lacking in humour-India talked about Pakistan aggression; the Pakistan representative about plebiscite. By making a categorical denial of the Indian charge of aggression, Zaffrullah Khan sought to assure India that Pakistan was no party to the aggression. Nevertheless, Noel Baker insisted on treating Pakistan as a party to a settlement by negotiation. Members sought perfection and recommended measures in absolute terms. Zaffrullah Khan tried to ride twin horses in opposite directions. He professed innocence, on the one hand, and acted as if he held a brief for the invaders, on the other. Though lost on the Council, his fear of a probe by an independent authority was betrayed when he tried to dissuade it from engaging itself in any investigation of facts...Pakistan's profession of innocence and its opposition to any investigation of facts could not be reconciled. What was Pakistan afraid of, if its hands were clean?
Noel Baker talked of "this war", but his advice to the Council was to forget the past, treat India and Pakistan with equality, both, according to him, having equal interest in Kashmir, and to press forward with the problem of plebiscite."[225]

Whatever the Security Council wanted to do or did, was in contravention of the Charter of UN and in breach of International law. India found isolated in the Security Council but being on the path of righteousness, she fought boldly even to her disadvantage, and faced successfully all the political assaults made on her and her sovereignty in the State of Jammu and Kashmir. On August 13, 1948, United Nations Commission passed a Ceasefire Resolution, comprising 3 parts. First part contained the Ceasefire order.

How the Ceasefire could be effected and with whom the Ceasefire agreement could be entered into or against whom Ceasefire Command could be issued. The Pakistan Government had denied categorically any invasion on Jammu and Kashmir then she had alleged no complicity in it, according to her, she was not, aiding, equipping or inducing the raiders, nor she has any connection whatsoever, with them. She then began to change her stand in connivance of Western Powers, in sharp contrast to the earlier one without entailing any punishment or indictment. She then brazen facedly said that, raiders were not under her control, so how could she stop them.

However, when UN Commission visited India and Pakistan, it found in May, 1948 Pakistan had committed aggression against India in the State of Jammu and Kashmir and the Pakistan army was fighting against India. It should have called for taking drastic and

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[225] B. L. Sharma, The Kashmir Story, P. 20.

exemplary measures against Pakistan for speaking wild lies, hoodwinking the world, duping the UN under the cover of falsehood. She contravened continuously the Charter of UN and enlarged the scope for breach of peace. But without taking any effective and stringent measures against Pakistan, UNO made her party with impunity, in the complaint of India, showing all indulgence to Pakistan and tried to convert the Kashmir situation into a India Pakistan dispute without any legal basis, in an attempt to internationalise the same. The part II of this Resolution dealt with Truce Agreement. It consisted of A, B and C clause. The Paras, I, 2 and 3 of clause A read:

> *1 "As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material changes in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw the troops from that State.*
>
> *2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.*
>
> *3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the commission."*[226]

The Prime Minister of India, however, urged the Commission's Chairman in his reply certain modifications to be made in Para A- Clause 3 of the reply vide letter dated 20th August 1948. This reply was some what materially detailed and important. Some particular points were raised and clarified by the Government of India. In reply to Para No. 2, the Prime Minister, referring to the basic fact of the situation leading to the conflict between India and Pakistan. This Para No.2 inter-alia, reads:

> *"This fact was the unwarranted aggression at first indirect and subsequently direct of the Pakistan Government of Indian Dominion territory in Kashmir. the Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by Pakistan Government of this invasion; there has been a continual denial and the Pakistan*

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[226] UNO's truce Agreement between India and Pakistan.

Government have evaded answering repeated inquiries from the Government of India," the reply said.[227]

Pointing out to Pakistan's silence and non communication of this material change in the situation as was essential under Security Council Resolution dated January 17, 1948, the reply further said:

"The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given, so far as we know, to the Security Council,"

the reply said, adding,

"...this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation,"

the reply said. Dealing with the Resolution, the reply said,

"We recognise, however that if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before your Excellency:

1) That paragraph A-3 of Part II of the Resolution should not be interpreted, or applied in practice, so as:

a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;

b) To afford any recognition of the so called "Azad Kashmir" Government," or

c) To enable this territory to be consolidated in any way during the period of truce to the disadvantages of the State.

2(3) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than observance of internal law and order and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by the overriding factor. Thus at any time the strength of the Indian

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[227] Indian Prime Minister, Nehru's Reply dated 20th August, 1948 to the Chairman UN Commission on Kashmir, raising certain points and seeking clarification with respect to Indo Pak "Truce Agreement".

forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder .
3(4). That as regards part III, should it be decided to seek a solution of the future of the State by means of plebiscite, Pakistan should have no part in the organisation and conduct of the plebiscite or in any other matter of internal administration in the State.
4(5). If I understood you correctly, A-3 of part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the commission was not competent to recognise, the sovereignty of any authority over the evacuated areas, other than that of the Jammu and Kashmir Government.
5(6). In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace, and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution."

The Chairman of the Commission vide his letter dated 25 August 1948, addressed to Prime Minister Jawahar Lal Nehru, conveyed the Commission's approval to the interpretation of certain clauses of the Ceasefire Resolution in the following words:

"The Commission requests me to convey to your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (C) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command."[228]

August 13, 1948 Resolution, generally known as Ceasefire Resolution, and the letter of Prime Minister of India, dated 20 August, 1948 and acknowledgement thereof by the Commission Chairman, dated August 25, 1948, bring out the following facts:

1 Ceasefire was ordered without handing over/ restoring the Kashmir territory occupied by Pakistan, to the Government of Jammu and Kashmir;
2 Pakistan occupied territory known as "Azad Kashmir", has not been recognised and she has to evacuate this territory.
3 Indian forces have to ensure security of Kashmir from external aggression and internal disorder,

[228] Confirmation of Indian Prime Minister, Nehru's points raised in his reply, by Chairman UN Commission on India-Pakistan, Vide his letter dated 25th August, 1948.

The Accession of Kashmir to India, has impliedly been admitted and accepted.

Prime Minister of India, Jawahar Lal Nehru had written another letter, even dated, to the Chairman of the Commission, specifically about the Northen area of the State which includes Gilgit Agency. In this letter, the Indian Prime Minister said:

"We must be free to maintain Garrisons at selected points in this area for the dual purpose of preventing the incursion of tribes men, who obey no authority, and to guard the main trade routes from the State into Central India."

The Chairman of the Commission in his seperate reply, even dated, did not wish to deal with it. The Commission's reply reads:

"The Commission wishes me to confirm that due to the peculiar conditions of this area, it did not wish to specifically deal with the military aspect of the problem in its Resolution of 13th August 1948. It believes, however,"

the Commission replied and said,

"that the question raised in your letter could be considered in the implementation of the Resolution."

The Commission proceeded in the matter but no headway was made. The Commission, however, adopted another Resolution dated January 5, 1949, which was treated supplementary to the earlier Resolution of 13th August 1948. Vide this Resolution, further changes were brought about by way of clarification.

After receiving the communications from India and Pakistan dated 23 December 1948 and 25 December 1948 respectively, the Commission on India and Pakistan accepted many other principles urged by both the countries as supplementary to August 13th, 1948 Resolution. Some of the important points and principles or clarifications accepted and added to the Commission Resolution dated January 5th, 1949 are as under:

1. "The question of the accession of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

2. A plebiscite will be held when it shall be found by the Commission that the ceasefire and truce arrangements set forth in Parts I and II of the Commission's. Resolution of August 13th, 1948, have been carried out and arrangements for the Plebiscite have been completed.

3(a) The Secretary General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general

confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite...

4(a) After implementation of Parts I and II of the Commission's Resolution of August 13, 1948 and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such as disposal to be with due regard to the security of the State and the freedom of the plebiscite;

b) As regards the territory referred to in A-2 of part II of the resolution of August 13, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities..."

It is surprising that in the very first Para (supra) the choice given for Accession between India and Pakistan was to reopen the Accession and so was it against the Indian Independence Act, 1947. Accordingly, the whole proposal of Plebiscite was bad and misconceived. Pakistan has never claimed Accession of Kashmir to Pakistan, nor any Instrument of Accession has ever been executed by Maharaja Hari Singh in favour of Pakistan. Neither the U N, nor its Commission on India Pakistan had any legal competence or authority to go (a) against the Kashmir's Accession to India accepted by the Governor General of India under the provisions of Indian Independence Act 1947. And (b) to extend the choice to Pakistan under the pretext of Plebiscite, it could not be done which amounted to behaving other than democratically and in defiance of the Indian Independence Act as well as the Rule of law. The Rule of law is the corner stone of Democracy. The absence of or non-compliance with the Rule of law, means to invite, vandalism and enforce or submit to Dictatorship or Despotism, which has absolutely happened with this case. Adherence to justice and legal system in this case means to accord respect to the Provisions of Indian Independence Act, 1947 as well as process taken and option of Accession exercised and culminated thereunder.

Contemplate a situation, for instance, that the Maharaja Hari Singh executes Instrument of Accession in favour of India. But the Governor General of India, does not accept the instrument of Accession, as he alone is possessing the overriding powers to accept or not to accept the Instrument of Accession as per the Indian Independence Act 1947. Can it be construed then automatically an Accession in favour of Pakistan? No, and if so, the Maharaja may execute an other Instrument of

Accession with Pakistan, which is accepted by Governor General of Pakistan. Immediately thereafter, Governor General of India may revive his decision and accept and sign the States Instrument of Accession. Such like things may give rise to dispute over the Accession, for determination, otherwise not. The Kashmir Accession case is, however, very clear. There is at all no dispute and problem about it. The problem, in fact, lies somewhere else and not in this legally valid Accession of Kashmir to India. How does then Pakistan come in? India's main grievance is against Pakistan, which has absolutely no claim or right over Jammu and Kashmir.

The UN Resolution about Plebiscite would mean to render the provisions relating to the Accession in the Indian Independence Act, 1947 as redundant. It will then render the whole Act as redundant and invalid, meaning thereby, the partition of India and creation of Pakistan is illegal and non-exist, as already shown in the foregoing pages. Accordingly, Pakistan and Bangladesh can not exist seperately and they have to return and merge in India, as Pakistan flouted the Indian Independence Act so far as Accession of Kashmir to India is concerned.

The world community and UN must take a serious notice of Pakistan's attitude and behaviour together with this legal position of the case so that Rule of law is maintained and respected in the world. That will help maintain peace, otherwise it will amount to destroying of peace and inviting of war! That is essential to maintain and preserve peace in the globe or else it would bring ripples to the world "Peace", and to shatter finally, resulting in disservice to afflicted humanity. Further more, with the passage of time and material change having occurred in the situation in addition to Pakistan's non-performing and non-complying with the essential conditions of the Resolutions accepted by her, like evacuating territory" of the State of Jammu and Kashmir and withdrawing her men and army from occupied Kashmir, Plebiscite could not be held and conducted. Otherwise also plebiscite has become obsolete, redundant and not capable of performance.

CHAPTER XI

CEASEFIRE OR CROSSFIRE.

On emergence of the two Dominions, India and Pakistan, the British Commanders-in-Chief, headed both the Armies, seperately. The Chief of the Indian Army became Sir Rob Lockhart and that of Pakistan, Sir Frank Messervy. Lockhart continued on this post till December 31st, 1947 when he was replaced by Sir F.R.R Bucher. Messervy was substituted by Sir Douglas Gracey on 15th February 1948. Sir Claude Auchinleck was appointed Supreme Commander of both the Armies and so had authority over the Armies of both, India and Pakistan. Obviously, therefore, the Armies of India and Pakistan, were under the Joint command of the British Supreme Commander. This was the command position of the Indian and the Pakistani Army, when Pakistan started raid on Kashmir in the month of September, 1947.

This created a piquant situation as officers of the Pakistan Army were guiding and supporting the Pakistani raiders and infiltrators into Kashmir, in civil clothes. After Accession of Kashmir to India, Indian Army came into the battle field to repulse the attack and drive out the raiders from the intruded areas. Pakistan's raid was subsequently, followed by deployment of regular Pakistan Army into the State to face the defensive and repulsive measures of the Indian Army.

On this issue of Kashmir, however, Government of Kashmir through Central Government, was instrumental in getting the Supreme Command closed down on November 30, 1947, for want of faith in it. On no account, it was an act of loyalty and discipline on the part of British Officers, commanding army on Pakistan side, to help raid and invasion of Kashmir. It was covertly initially and overtly subsequently to face the Army of Indian Dominion. Confrontation of both the Armies in the State of Jammu and Kashmir escalated tension as the situation was already worse due to Pakistan infiltration and raid.

Lawful presence of the Indian Army and illegal entry into and occupation of a territory of the State by Pakistan forces, was apparently not of any significance to UNO. What patently mattered, to the UNO was to ensure that the Pakistan Army was not driven out and the aggression vacated. They, however, saw to it that the entry and stay of Pakistan army was given legitimacy by retaining it in occupation wherever

it was in the State. It was also to thrust a solution on India, over and above the Accession made by Kashmir to India. As such, the UNO showed its keenness to issue a direction of ceasefire to India and Pakistan.

In the complaint made by India to the Security Council, it was categorically mentioned that the assistance given by Pakistan to the invaders must immediately be stopped.

Without asking Pakistan to withdraw the raiders and stop helping and encouraging them in whatsoever manner, the Security Council thought it fit to shelve this main purpose of the Indian complaint. The UNO thereby saved the Aggressor and perpetuated the aggression and aggrieving the aggressed further. Not a word of resentment/unhappiness was ever expressed by the UN over the unprovoked attack on Kashmir by Pakistan, and her behaviour and conduct.

In the resolution of UN Commission on India and Pakistan of August 13, 1948, the following observation was made:

> *"Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation."*[229]

Indian Government had not asked UNO to mediate and thrust a solution of their liking, on the complainant country, so as to let the accused country go scott free. Part-I of the above Resolution deals with the ceasefire directive. India was and is more powerful than Pakistan. To check and restrain India from utilising her military potential for her defence in the State was to extend automatically protection to the wrong doer, Pakistan Government. Clause B of this part of the resolution is against the spirit of the complaint of the Government of India. It says:

> *"The high commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir."*[230]

Under clause D, the Commission was to appoint in its discretion, the Military Observers to supervise the "observance of the ceasefire order". The reply and stand of Pakistan Government in the UN against the Government of India, was total denial of the allegations. Neither they sent, helped and armed the raiders, nor their Army had any hand in the raid, asserted Government of Pakistan. The Security Council resolution of January, 1948 had, however, concluded with the following paragraph:

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[229] UNCIP Resolution of August 13,1948(S/1100 Para75).
[230] Ibid.

"And further requests each of those Governments (India and Pakistan) to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon."[231]

The Pakistan Government did not choose to inform the UNO of the presence of Pakistan army in the territory of Jammu and Kashmir. It was in fact, present there when Pakistan Government made a big denial in UNO. However, the truth had to prevail and it did. That the Pakistan forces in the State of Jammu and Kashmir, constituted a "material change in the situation". In fact, it was already a "material change" but suppressed by Pakistan and overlooked by the UNO. It warranted a serious indictment and also a stern action against Pakistan Government. But it was taken lightly as if nothing had happened and the UN posed to believe in Pakistan Government's assurance to withdraw its Army from the State. The part II clause A (1,2,3) of the said Ceasefire Resolution, relating to the Truce Agreement, says:

"1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission."[232]

This frame of work and the planning of the UNO, raises five important and serious questions:

First: Why Ceasefire and Truce Agreement were needed and effected, when Pakistan Government admitted its guilt and accepted presence of Pakistan Army in the State territory and assured withdrawal of its army?

Second: Why was not a time bound programme of short duration, fixed for evacuation of the State territory by Pakistan troops so as to

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[231] Resolution of Security Council adopted on 17th January,1948(S/651).

[232] Ibid.

terminate the situation referred, without requiring to take any further action or proceedings like establishment of Ceasefire line etc?

Third: Pakistan Government allegedly specified month of May 1948 when its army entered into the territory of the State of Jammu and Kashmir. In face of this admission, what action was taken by the UNO or penalty proposed or indictment passed against Pakistan for violating the Security Council Resolution of 17th January, 1948, calling upon to restrain—from doing or causing to be done or permitting any acts which might aggravate the situation?

Fourth: Why was all this not done by the UNO to end the conflict between India and Pakistan and to prevent the wars, cold, hot and proxy, between India and Pakistan, as also the breach of peace in the Area?

Fifth: Was it a premeditated design of the influential Powers in the UNO, to pass the 13th August 1948 Resolution impliedly seeking perpetuation and Justification for the conflagration and presence of Pakistan Army facing Indian Army on the territory of India, in Jammu and Kashmir?

The readers may, after going through the whole book, make their own assessment, analysis and Judgement on the above and other questions cropping up in this Book. The UNO, however, made the aggression a matter of prolonged affair and proceeded further to establish a Ceasefire line, now known as Line of Control (LoC) in the State of Jammu and Kashmir between India and Pakistan. Vying for power superiority and gaining influence and wider markets in the world, the interested countries, look for the prolong trouble spots and escalate the troubles and keep the trouble spots alive instead of helping to solve and defuse the tension and ease the situation. Kashmir has been sought to be converted into one such spot. In this regard the United Nations Commission for India and Pakistan invited both the Governments vide letter dated 2nd July, 1949 to send "fully authorised military reperesentatives" for the purpose of ceasefire which they did. The representatives of both the countries met in Karachi in presence of UNC members from 18 July to 27 July, 1949. After deliberations, they established ceasefire line between the two countries – India and Pakistan.

Clause B of the Agreement says:

"1. Under the provisions of Part 1 of the Resolution of 13th August, 1948, and as a complement of the suspension of the hostilities in the State of Jammu and Kashmir on 1 January, 1949, a Ceasefire line is established.

2. The Ceasefire line runs from Marawar in the south, north to Keran and from Keran east to the glacier area -----" [233]

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[233] Annexure 26 of UNCIP. Third Report-S/1430

On some points, there was no agreement till then. This agreement was signed in Karachi on July 27, 1949 for India by Lieutenant General S.M. Shrinagesh, for Pakistan by Maj General J.W. Cawthorn and for the UNC for India and Pakistan by Hernando Samper and Lt General M. Delvoie.

This Ceasefire Agreement was a boon for Pakistan. She got implicitly delegated and unauthorisedly vested power to occupy, hold and control the Kashmir territory across the Ceasefire line (LoC). It is more than half a century that the aggression of Pakistan over the State of Jammu and Kashmir stands perpetuated. The aggressed country and the people feel somehow aggrieved on the attitude of UN. What has happened to the assurance of Pakistan Government given to the UNO that she would withdraw her troops from the territory of the State? Was it to hoodwink the world with the connivance of some Powers? The State territory is lawfully a part of the territory of the Sovereign India.

This State of affairs, is a continuous interference in the internal affairs of India, as also unending Aggression on its territory. It is a constant source of irritation, provocation, intimidation to this part of India and the people, as also uncertainty for them, to say the least. Has the exercise of making Ceasefire and establishing the Ceasefire Line been fruitful or baneful? Pakistan, having no right, to be in Kashmir territory, yet enjoys advantageous position. India having claim and legal right to be in Kashmir, as it is a lawful part of India, has been driven by UNO on defensive. Is it not a major failure of UNO in the World?

Ceasefire and Ceasefire line has given not only an uneasy truce but hot and aggressive Line of Control. It seizes fire and emits crossfire, more often than not, and ceases fire seldom. It has not contributed to the evasion of infiltration and conflagration but has paved way for a new type of violence, known as Cross Border Terrorism. LoC has become more ablaze than before. People living in Indian side of the Ceasefire line, have become more vulnerable to attacks through this line and their life, honour and Property are exposed to more risks through this Ceasefire Line (LoC). Far from seceding hostilities between the two countries, they have become more contending which has deepened the conflict and provided the opportunity of low cost war to the Pakistan Government. It derived much out of nothing.

The temporary borders established by the UNO, are neither obstructive, nor protective. These are porous and made ingress and egress easy for Pakistan sponsored and abetted terrorists. The intentions

across the Line of Control are ulterior and deceptive, despatching into this side armed saboteurs and other well equipped disruptive elements both, civil and military. They aim at terrorising and victimising the innocent people, destabilising the Government, disturbing the peace on large scale, surcharging the atmosphere with panic and tension and thus making way for forcible capturing and grabbing of the rest of the State.

The Pakistan Government did not content with the worst it had done in the initial period of economic blockade imposed, followed by brutal armed invasion of the State. The harsh and horrible treatment meted out to the helpless women folk and the cruel massacre of innocent people, the Hindus/ Sikhs in particular, are shameful acts. It is another colossal human tragedy in the world, caused by Muslim League and its Pakistan Government, immediately after partition of India.

The Indian Government, however, hinted politely to the dimensions of destruction and magnitude of human loss that the State people were exposed to. While the raiders continue to commit crime on the land of India, the UNO sought to expose further residents to their crime and invasion.

> *"The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable."*[234]

Pakistan Government has been trying to enact such dramas again, to provide feast to their eyes: to watch and chase the escaping and fleeing girls and young women, not able to protect themselves, but many jump into the wells or the River, in order to save their honour and chastity; to enjoy there harassment and torture and listen the painful screams and cries of the wounded and dying men and women, lips closed, cries suppressed, lest the oppressors, killers, kidnappers, rapists should feel any sign of life in them. The support to Pakistan by big powers in the UNO, resulted in encouraging this policy of Pakistan. It augmented trouble, affliction and destruction of multitudes of faultless human beings. That in effect would disintegrate the world's a large nation. It would not enrich the world but to leave it poorer in number and something else. Such a policy and attitude is certainly falling in line with peace breaking and war mongering.

The borders so set up, temporarily though, are ablaze many a time. The execution of stand still agreement by the Kashmir Government in favour of Pakistan is not as good or as bad as the execution of Instrument of Accession by the Maharaja in favour of India is. Leaving aside the legal import of Execution of Instrument of Accession, in a

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[234] Government of India's complaint dated 1st January 1948 to Security Council

prudent man's view also, Instrument of Accession is all powerful and standstill agreement is nothing but a temporary arrangement for a limited purpose which is transitional in nature. There is no comparison between the two at all. The instrument of Accession is, therefore all pervading and powerful, whereas the standstill agreement is not. There is, therefore, no logic to equate both the documents or to equate both the countries India and Pakistan so far as the State of Jammu and Kashmir is concerned.

While speaking before the Jammu and Kashmir State Constituent Assembly, Sheikh Abdullah wondered why a simple question of aggression has been made "so involved" by bringing the aggressor at par with the aggressed. He said:

> *"Firstly, was Pakistan's action in invading Kashmir in 1947 morally and legally correct, judged by any norm of International behaviour?------- In unambiguous terms he (Sir Oven Dixon) declared Pakistan an aggressor. Secondly, was the Maharaja's Accession to India legally valid or not? The legality of the accession has not been seriously questioned by any responsible or independent person or authority.*
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> *These two answers are obviously correct. Then where is the justification of treating India and Pakistan at par in matters pertaining to Kashmir? In fact, the force of logic dictates the conclusion that the aggressor should withdraw his armed forces, and the United Nations should see that Pakistan gets out of the State."*[235]

Lacking legal sanction, therefore, the Line of Control (formerly called Ceasefire line) has come to stay surprisingly so long. It has not served, however, any purpose either of India or of peace. It has proved for India, less of Ceasefire, but more of Crossfire: Taking undue advantage of India's somewhat liberal attitude and her faith in the UNO, Pakistan Government again made a large infiltration into Kashmir in 1965. It was army in civilian clothes, some of the Pakistani army personnel had even married locally without disclosing their real identity and intentions. It was for such Pakistani's "Mutta Marriage" and for the marrying local girls, permanent marriage, but not to last long.

The truce and the Ceasefire Line was violated by Pakistan again and again in breach of International law. It was act of perfidy, presumably done in utter disregard of the UN Observers, present in both the parts of the State on either side of the Ceasefire Line. Mohamad-ud-Din, a gujjar of Gulmarg (Kashmir) was the first man to convey the information of Pakistan army's infiltration into the

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[235] Sheikh Mohamad Abdullah's speech before Jammu and Kashmir Constituent Assembly Srinagar on November 5,1951.

State. He came down to Srinagar and met D.P Dhar, the then Home Minister of the State and apprised him of the situation personally on 3rd August, 1965. After the start of current terrorism in Kashmir, Pakistan settled scores with Mohd-ud-Din, Gujjar and killed him over a decade back at his native village in Gulmarg after 27 years of 1965 war. Perhaps, coming to know that the State Government had received the news of infiltration, Pakistan Government mounted a surprising attack on Jammu and Kashmir Valley. The latest sophisticated military hardware supplied by USA to Pakistan, was her assumed superiority over India. Pakistan, however erred in her assessment and Judgement. She could not evaluate properly the superiority of Indian Army in respect of dedication, valour, sincerity and technique of fighting.

Pakistan army fought more on the strength of Sabre Jets, Patton Tanks and other equipments and supplies made to Pakistan by USA. Indian Army as against this fought more on the strength of self confidence with self sacrificing nature. In the changed strategy of fighting war with India in Kashmir, Pakistan chose to attack aggressively Jammu approach line to the Valley of Kashmir. The Indian army deployed at Chhamb jurain Sector, was taken aback on the sudden and unprovoked vigorous attack from this route by Pakistan Government, wading its way unhindered. They advanced with " invincible" Patton Tanks , so regarded it America and was proud of its manufacturer. About 500 Gurkha and other soldiers of Indian army laid down their lives by laying on the roads with latest Indian manufactured grinade, tied with their bodies, to get the Patton Tank bursted and smashed when it passed over and lynched the body of the soldiers.

In the vicinity of Chandmari (Tatoo Ground) Srinagar, and at Batamalo (Srinagar) the armed infiltrators of Pakistan had concentrated in a good number. They had attacked and fired at New Civil Secretariat from a distance, being in the proximity of Batamalo. In the large grounds of Chandmari, there was a regular fight, though intermittently, quite for some days. Loss of men and material was sustained on the both sides. The infiltrators then shifted their Headquarter to Batamalo. Exchange of fires occasioned often in the area between the infiltrators and the Indian Army. Ultimately, army burnt down the suspected areas of Batamalo. In the fight that ensued, many infiltrators were killed and others dispersed. It rendered them ineffective to give an organised fight to the armed police or army. Within some period, the infiltrators disappeared. But some were reported to have stayed back and settled in Kashmir. The fact remains, that Kashmiris/ Muslims on the whole did not co-operate with the infiltrators.

Whenever and wherever the local Muslims spotted them, they secretly informed the police and got them arrested. It is what the UNO wished and Kashmiris suffered. Pakistan could not withstand the military thrust of Indian Army. She broke and relented. India announced Ceasefire. While addressing the troops thereafter, at a forward line, Prime Minister Lal Bahadur Shastri appreciated the performance of the Indian army for successfully then repelling and repulsing the attacks. He also told them that "3 feet" small Shastri turned out six feet tall Shastri for Pakistan. It was a rebuff by him to Pakistan army which had earlier at the start of war, sarcastically remarked what could "3 feet" small Prime Minister of India do to Pakistan? Shastri paid them in the same coin after coming out in flying colours. Russia on friendly level, convened India-Pakistan meeting at Tashkent. Russia was not fair to India, when the Russian Chairman exerted his influence to make India agree to return to pre 5 August 1965 position. By virtue of Tashkant Declaration, what Indian Army had won in the war front, India lost that on the negotiating table. Agreement was, therefore, made by both the countries on reverting to their respective previous positions under the Tashkent declaration. It reads,

> *"The Prime Minister of India and Pakistan have agreed that all armed personnel of two countries shall be withdrawn not later than 25 February, 1966, to the positions they held prior to 5 August 1965 and both sides shall observe the ceasefire terms on the Ceasefire line."*[236]

This sent shock waves to the Indian Army and the people. Shastri himself is said to have felt about it very much and asked immediately his son-in-law in India on Phone from Tashkent as to what reaction was in India on that agreement. Shastri's sudden death, however, occurred in Russia under suspicious circumstances. The real facts leading to his death are still unknown. No High Power Commission to hold thorough probe into Shastri's sudden and suspicious death in collaboration with Russia, was instituted to reveal the authentic facts about his death for public information which they still are interested to know. In any case, due to pretentious Ceasefire and truce manipulated by the UN in Kashmir way back in 1948, India had to sacrifice on Kashmir, one of her Prime Minister. The same Powers who influenced the UN to bring about Ceasefire and Truce and consequently, created the Ceasefire Line in the State of Jammu and Kashmir, virtually divided it between India and Pakistan but practically left them at logger heads:

[236] Tashkent Declaration signed by Prime Minister of India and President of Pakistan in Tashkent on 10th January, 1966.

Pakistan enjoyed the liberty of violating the truce, defying the Ceasefire Line, initiating the troubles and the wars and disturbing the peace. These are some of the known features about Kashmir, putting India on defensive invariably, which the UN and the Western Powers may like to boast of. By losing Prime Minister, Lal Bahaur Shastri on the altar of peace in Kashmir, India has undergone very great sacrifice. But the various other sacrifices were made again and followed by India for no fault of her. It seems an unending affair calling for taking stringent measures. The Nation must seriously think over it and the Government should face the situation boldly and effectively. The Government not prepared for it, has no right to remain wedded to power and must step down. The Hindu minority community of Kashmir Valley is directly and indirectly involved with it, and has been paying a very high cost for it. Their very survival is at stake, whose home stands already snatched. The members of this community are, obviously, the most affected and harmed persons, having lost their moorings and living presently in forced exile.

In their traumatic sufferings and perpetuated agonies, Pakistan and UNO are responsible for this situation with difference in degrees only. They have faced genocide in Kashmir and are a discarded lot by the State and Central Governments, which also are responsible for the agony of the State people for collateral purposes.

Cease-fire and Truce Agreements between India and Pakistan made at the instance of UNO, served as an instigation to latter psychologically, to annex and grab rest of Kashmir even if a war against India was to be waged and that too on the soil of Kashmir itself. To achieve this and along with this was and is Pakistan's further aim of liquidating physically and converting to Islam, the non-Muslim minorities of Kashmir. This is more or less outcome of boosting up, in a way glorifying the accused and attempt to humble the complainant by UNO drawing a ceasefire line without indictment to Pakistan. And she seized fire often and violated this demarcation line at her discretion invariably and without impunity. UNO's curious sense of justice, fairness and adherence to her new system of law! In 1965 the war did not confine to the either side of Cease-Fire line alone but escalated far beyond the International borders between India and Pakistan. Did the UNO and the world powers influencing the UN, therefore, serve the cause of peace or opened the vistas of apprehended wars on Kashmir? In the Tashkent Declaration, the interests of peace in the region were considered and the relations between the two countries on the basis of non-interference in the internal affairs of each, were emphasised. All this was, however, again flouted and the two countries were dragged afresh into war.

The dust of the war of 1965 had yet to settle down, when the portals of new war opened in 1971. Pakistan lost the war

and surrendered. About 93 thousand surrendered Pakistani armed soldiers were with India as war prisoners. As a result of this war, Pakistan got bifurcated into two: Bangladesh was a new country in the world which was carved out of Pakistan. It set at naught, Jinnah and his Muslim League's fanatic Muslim philosophy and "Two Nation" theory. Pakistan has absolutely no real or genuine claim or right, even the remotest one, over the State of Jammu and Kashmir. Pakistan Government's vague and unsuccessful attempt to build so called claim on the basis of " Two Nation " theory could also not stand even for the sake of argument. The birth of Bangladesh shattered Two Nation theory and Pakistan Government was left embarrassed with loss of face. Even otherwise also political unity founded on religious affinity of Islam had no relevance. Sheikh Mohamed Abdullah had contested Muslim consolidation on the basis of religion of Islam as exploited by Jinnah and his Muslim League in respect of the Muslims of Kashmir. Sheikh Abdullah expressed that he and his National Conference had sharp ideological differences with the founder of Pakistan and did not subscribe to Two Nation theory. Sheikh Abdullah speaking on Kashmir in Security Council said:

" Today Pakistan has become champion of our liberty. I know very well that in 1946, when I raised the cry of " Quit Kashmir", the leader of the Pakistan Government, who is the Governor General now, Mr Mohammad Ali Jinnah, opposed----- declaring that this movement was a movement of a few renegades, and that Muslims as such had nothing to do with the movement.

The Muslim Conference, which has been talked about so much, opposed my movement and declared its loyalty to the prince. I and my organisation never believed in the formula that Muslims and Hindus form separate nations. We do not believe in the two–nation theory, nor in communal hatred or communalism itself. We believed that religion had no place in politics. Therefore, when we launched our movement of "Quit Kashmir" it was not only Muslims who suffered, but our Hindu and Sikh comrades as well."[237]

It is a fact and stands proved by the time that Jinnah and his Muslim League could not assert in Kashmir Valley in presence of Sheikh Mohamed Abdullah and his National Conference. Muslim Conference, a sister wing of Muslim League in the State of Jammu and Kashmir could also not achieve substantial following in the Valley as against Sheikh Abdullah and National Conference. Both sides were mutually at draggers draw and Muslim Conference could not show Sheikh Abdullah and his National Conference down, at least in the valley

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[237] **Sheikh Mohamad Abdullah's speech in the UN Security Council, Meeting No. 241, held on 5 February, 1948.**

of Kashmir. Obviously, therefore, Pakistan has no valid ground or excuse to usurp the territory of the State of Jammu and Kashmir and to remain there, under the cover of UNO's Ceasefire Line. The Pakistan occupation of State territory is wholly illegal and forcible which has often invoked cross firing and disturbance of peace. This situation is the outcome of unfair policy persued against India by the Western Powers in UNO.

This illegal position of Pakistan in Kashmir and her tendency of disturbance of peace is nurtured by United Nations Organisation, by drawing Ceasefire Line and Truce Agreement between India and Pakistan which Pakistan has never bothered for but has fettered the discretion of India.

The end of the 1971 war was found in Shimla Agreement concluded between Prime Minister of India, Indira Gandhi and the President of Pakistan, Zulfikar Ali Bhutto in Shimla in 1972. Eschewing violence and developing friendly relations was, as usual, the theme of this Agreement, but special emphasis was laid on settling the mutual problems by bilateral negotiations." It says:

> *"The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the Sub-continent….."* [238]

Simla Agreement is apparently one of the most important documents on the mutual relationship of India and Pakistan. Much of the contents of this agreement are, no doubt, in tune with earlier commitments of the two countries. The other clauses, assertions and stipulations made therein, are, however, certainly a departure from the beaten track and underlines much wider theme and broader assurances and obligations to discharge. In clause No. II of the Simla Agreement is included, for instance, the following stipulation:

> *"Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organisation, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations."* [239]

It was decided in Shimla that the Line of Control (LoC) in the State of Jammu and Kashmir would freeze. It was accepted by Pakistan President as the "de facto border" between the two countries. But it was not made a part of the written Agreement on

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[238] Simla Agreement executed on 2nd July , 1972 at Delhi (Appendex No.2)
[239] Shimla Agreement, Clause II, dated 2 July, 1972.

the request of vanquished Pakistan President on his plea that he would be embarrassed on return to his country. However, he assured Indian Government that within some time he would manage to get it ratified by Pakistan and announced by Government of Pakistan. The Ceasefire line was, however, purposely changed to Line of Control (LoC) to make new beginning of new friendly relations.

Once threatened India by Zulfiqar Ali Bhutoo of waging war against India for one thousand years, had almost made a merciful appeal to Indira Gandhi, Prime Minister of India, not to put the decision about the "border" in the Agreement for his sake. She accepted Bhutto's request out of sheer magnanimity. It is in this context, that some time was given in the Agreement itself for implementing this assurance of Pakistan President without of course, specifically referring to this understanding and decision. This was in fact, the main decision on the basis of which Pakistani Prisoners of War were released. The clause V was, therefore, incorporated in the Agreement, which reads as under:

"This Agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures, and will come into force with effect from the date on which the Instruments of Ratification are exchanged."[240]

Pakistan Government much time later, got the Shimla Agreement ratified by Parliament of Pakistan. But apparently, Zulfiqar Ali Bhutoo never intended to exchange the Instrument of Ratification with India. It was a half hearted attempt on his part and like other Pakistani rulers, he also had no propensity to keep honour of his word. Pakistan Government practically resiled from and violated this Agreement, which virtually was a peace treaty between India and Pakistan. Any difference between the two countries was to be settled mutually by them, as declared in the Simla Agreement. In other words, the India and Pakistan case in UNO, was implicitly taken out of the ambit of UNO, by the two countries voluntarily.

It virtually amounted to withdrawing India's complaint from UNO. Pakistan thus being a consenting Party thereto. But the bilateral Simla Agreement did not commit the Parties to a specified time bound programme with lack of sincerity on the part of Pakistan Government, this important Agreement lost its value and significance in the wilderness of the time. The result is that Pakistan is committing all types of violations by defying Truce and Ceasefire line brought into existence by UNO. Under the cover of it, there is only

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[240] Simla Agreement, Clause V, dated 2 July, 1972.

breach of peace as if there was never Truce and Ceasefire Agreement between India and Pakistan. Despite all this the Truce and Ceasefire Agreements exist in the records of UNO which have lost the meaning and relevance. But the adverse effect they left on Kashmiris, particularly on the minorities, still subsists and haunts them. In view of the attitude of UNO in this matter, this World Body has, consciously or unconsciously also been instrumental to some extend in Genocide of " Kashmiri Pandits" in the Valley of Kashmir.

Two things emerge very clearly from Shimla Agreement. First, it is a peace treaty between India and Pakistan but Pakistan Government willingly defy and destroy peace. Second, the Jurisdiction of UNO has virtually been withdrawn in the matter by the two countries. Shimla Agreement is an expression of want of faith by India in the UNO relating to her complaint against the raiders and Pakistan. This complaint has taken a new turn in the form of Cross border terrorism supported by Pakistan. In attempt to shielding Pakistan in UNO, the Western Powers through UNO, put Pakistan an advantageous position by forging Ceasefire Line. Pakistan is thus regularly disturbing peace and fighting sometimes an undeclared war and other times Proxy war. By the conflict created and symbolised with ceasefire line, Pakistan has been saved from defending her borders. She fights these wars in the territory of India in Jammu and Kashmir on and across the Ceasefire Line. It renders UNO functus officio with regard to Indo Pak relations over Kashmir which UNOitself chose to save guilty Pakistan.

CHAPTER – XII

PLEBISCITE

Much has already been said in the foregoing pages of this book, about Plebiscite in Kashmir, mostly in its legal context. Plebiscite has no relevance and could not be implemented. The Anglo American Block, however, seemed initially very keen about holding Plebiscite in Kashmir, thinking perhaps, it would give them upper hand in the relations of India and Pakistan and enable them to mould the situations as they liked. They have thus tried to wield further political influence in Asia. In Kashmir, the word " Plebiscite" was exploited to any extent, mostly for material benefits and political bargainings. All the secessionist groups and the Hurriyat Conference itself, exploit it even now as an arsenal to achieve the aims, not known even to their co-workers. Nobody knows whether the Hurriyat Conference has unanimity on joining Pakistan, remaining Independent or on continuing in India or on anything else. Many of its constituent groups and leaders seem to have different and even opposite political views, so far as the status of Kashmir is concerned.

Jammu and Kashmir People's Conference of Late Abdul Gani Lone, for instance, accepted Accession of the State to India and stood by it, though it continues to be a constituent of Hurriyat Conference. Some years back, People's Conference hold a massive Convention in Srinagar despite on going terrorism in the Valley and distribute the copies of its Party Constitution also there. In the Preamble of its constitution, it is said:

> *"Promoted by the desire to secure a responsively effective autonomous status for the State of Jammu and Kashmir within the Union of India".*[241]

Again, in its Constitution relating to Aims and Objectives the following is incorporated:

> *"A) To strive for securing and maintaining responsive, autonomous status for the State of Jammu and Kashmir within the Union of India reflecting the aspirations of its people's guidelines for such status being already contained in the Instrument of Accession and Article 370 of the Constitution of India."*[242]

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[241] Constitution of Jammu and Kashmir People's Conference, P. 21

[242] Ibid. P 21 11 Sub section A.

Hurriyat Conference is exclusively a Muslim Combination of a section of Muslims apparently with sectarian politics. Peoples Conference professes secular politics under Indian Constitution. Further, Sub section B of its Party Constitution reads as under.

> *"B) To work for the attainment of the goals of the democracy, social and economical Justice and secularism, principles enshrined in the Constitution of Jammu and Kashmir and the Constitution of India."*[243]

Syed Ali Shah Gilani's Jamat-i-Islami is ostensibly Pro-Pakistan and non-secular. He would, however, always subscribe an oath of allegiance to India, for fighting State Assembly elections and won these elections several times. Yasin Malik's JKLF stands for Independent Kashmir. Among the parties in the Hurriyat Conference, there are sharp contradictions inter-se, and the slogan of Plebiscite or Self Determination is an alibi for their survival.

They believe Plebiscite is the catch word and perhaps, panacea of their all ailments, least knowing whether this slogan is really workable or not. The United Nations preferred this slogan and considered it as the key word containing solution to an assumed Kashmir "dispute" which in fact, there is legally none. It is a situation but not "dispute" and the interested quarters refer it so. It is absolutely wrong, false and baseless to term it or use the word "dispute" in relation to Kashmir situation. Out of this situation a conflict has been sought to be created by Pakistan and other interested quarters. The facts must be revealed and faced boldly to avoid further violence and bloodshed.

The wrong impression created by the leaders in the mind of common man, needs to be brushed aside and the effect thereof warded off. The Government of India have always had exhibited a tremendous spirit of democracy and had conceded to the holding and conducting of the plebiscite. She did it, because of her deep sense of democratic values but at the same time defied the provisions of law, not permitting to hold plebiscite as substitute for Instrument of Accession, nor for its confirmation. Law has to prevail after all.

The Resolution of Plebiscite carried by UNO on Kashmir, perturbed Kashmiris, more so, non Muslims. It meant creating of unending political uncertainty and at occasions grave political instability in the State. A delegation of Sanatan Dharm Yuvak Sabha headed by Sheo Narayan Fotedar, went from Srinagar to Delhi to seek clarification about this Resolution from the Government of India. The delegation called on the Prime Minister, Jawahar Lal Nehru in this

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[243] *Ibid. P 21. Sub section B.*

regard in January, 1949 and expressed to him some apprehensions and doubts. "I assure you there will be no Plebiscite," Nehru told this delegation.

The delegation[244] could not feel convinced, Justice J.N.Bhat (Retired) a member of this delegation, told me. Nehru, however, elucidated that conditions for Plebiscite imposed upon Pakistan were so strict that Pakistan would not fulfil them. The first obligation to discharge was, to withdraw her whole army and other raiders from the State which Pakistan would not do, Nehru told the delegation as narrated to me by Justice Bhat. Nehru was very firm on Kashmir and further conveyed to the delegation members: "You people be happy there and I assure you, there will be no insecurity", Nehru emphasised. According to Justice J.N.Bhat, Nehru also said to them, "Jammu people say to settle the matter on taking Jammu region, that can be done within five minutes if we so wanted but we will not do that, Nehru conveyed to them and asserted, "Valley is the Prize". As per Justice Bhat, Nehru was bent upon to retain Kashmir at any cost. "I will send the whole world to wreck and ruin but will not leave Kashmir," Nehru thundered.

The UN, had nominated and constituted one man Plebiscite Administrator, Sir Owen Dixon, a Jurist and Judge of Australia Supreme Court. He started to move in this direction to hold and conduct the Plebiscite in the State of Jammu and Kashmir. He, however, came to know that Pakistan was Aggressor and became reluctant to make preparations for conduct of plebiscite in face of the aggression and non-evacuating of the army and the territory of the State by Pakistan. Holding of plebiscite was not an absolute decision but contingent upon fulfilling certain conditions by Pakistan. Vacation of the State territory and the army and raiders by Pakistan, was the most important preconditions for holding Plebiscite in Jammu and Kashmir. Pakistan, however, wilfully defied this condition imposed upon her and so the much publicised plebiscite could not be held in the State and the Plebiscite Proposal automatically died its own death. After visiting the State, Dixon recorded his views and furnished report to the UN. He among other things, made following observations:

> *"I ascertained from the Prime Minister that they considered that, with such a Plebiscite in view, there was no longer any hope of agreement upon demilitarisation or upon the conditions which*

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[244] Sanatan Dharm Yuvak Sabha was premier organisation of Kashniri Pandits. The delegation was led by its President Shri Sheo Narayan Fotedar.

would follow demilitarisation or upon any course that would advance the position towards a settlement".[245]

Possessing a Judge's Judicial mind, Sir Dixon did not like to deviate from the agreed and admitted position or conditions or to give his verdict on a point, not forming part of the Agreement. He, however, kept in consideration, the terms and conditions of India placed in the Commission's Resolution and the non-legal position of Pakistan. He further said:

"India had advanced not only the contention to which I have already referred that Pakistan was aggressor, but the further condition that this should be declared. The Prime Minister of India at an early stage of the meeting made the same condition and referred to it repeatedly during the conference. I took up the positions, first that the Security Council had not made such a declaration; secondly, that I had neither been commissioned to make nor had I made any Judicial investigation of the issue; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the subcontinent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20th October 1947, by hostile elements it was contrary to International Law, and that when, in May 1948, as I believe , units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with International law."[246]

The report of the Australian Supreme Court Judge, Sir Owen Dixon was implied indictment of the UNO for taking a lenient view of the Aggressor's role and inclement view of the aggressed people. It indicated measures and courses adopted and the results intended by the UN were unfair and prejudicial to India. Dixon, therefore, did not seem inclined to implement the same as Plebiscite Administrator. He also did not feel, apparently, persuaded to conduct an overall plebiscite of the whole State of Jammu and Kashmir but pleaded for seperate Zonal Plebiscite in the State, intending obviously, division of the State on the basis of people, pro and against either of the country – India or Pakistan. In that way Dixon thought displacement of people and refugee problem would be avoided which had tormented the State in general and its non-Muslim population in particular as was initiated by Pakistan Government. Owen Dixon, in his report further said:

[245] Sir Owen Dixon's Report to UNO, S/1791, Para 53. P.21
[246] Ibid.

"Almost all this would be avoided by Partition, the interest of the people, the justice as well as the permanence of the settlement, and the imperative necessity of avoiding another refugee problem, all point to the wisdom of adopting partition as the principle of settlement and of abandoning that of an over all plebiscite. But in addition the economic and geographic considerations point in the same direction."[247]

The Western Powers were taken aback obviously, on the disclosures made in the Report of Sir Owen Dixon for not being in agreement with the Commission on some unfair and divergent points. No less a person than Sir Owen Dixon made an implied exposure of their designs and plans as also lend an implicit support to the basic important contention of India that Pakistan was an aggressor in the State of Jammu and Kashmir. And also that she had committed violation of International Law by planning and arranging raid on the State and then Pakistan regular army entering into Kashmir, capturing and retaining the State territory. The allegations in the Indian Complaint against Pakistan, forming crux of the complaint and core issue for consideration and solution, were played down and side tracked by UNO. But these were deservedly pointed out and highlighted by the Australian Supreme Court Judge, Sir Owen Dixon, Plebiscite Administrator nominated by UNO.

It demolished the whole fake and cooked up defence of Pakistan and also exposed the partisan role of UNO against India regarding Kashmir. The Plebiscite Administrator, talked about partition of the State and holding of Zonal Plebiscite which India had not agreed to. India categorically rejected this Zonal Plebiscite Proposal. He, however, made a dig on Anglo American Powers by suggesting a proposal other than one he was required to carry out though rejected by India in toto.

This displeased these Powers who termed Dixon's observations and proposals as "ultra vires" of the Commission's Resolution. They, as such, set aside Dixon Report. The Canadian representative, McNaughton, as against this, made certain proposals which were in some way, superseding the Commission Resolution of 13th August, 1948, but they were not inclined to strike them down on this account. However, on the protest of Indian Prime Minster, Canadian Proposals were dropped and not processed for implementation.

Consequently, the Plebiscite Resolution became obsolete and non-operational and Pakistan herself is responsible therefor. The height of the matter is that Pakistan and other interested

[247] Sir Owen Dixon's Report to UNO, S/1791, Para 53 P.21

quarters, are occasionally whipping this dead horse of Plebiscite knowing the reality but exploit the innocent masses.

"The Anglo American Block appeared hostile to India. India herself was somewhat isolated. She was a member of the Commonwealth, but the British attitude to the Kashmir question, which was of vital concern to India, was pro- Pakistan and anti-India. The US attitude to India was even more hostile. ------ The Soviet Union was still distant, though it now showed friendly attitude to India's stand on Kashmir in the UN."[248]

Where does the obsolete and worn out U.N resolution on Plebiscite lie? Once voluntarily accepted by India is now rejected by her long back. On broader analysis of Dixon's report with certain modifications, it does suggest by way of solution, Partition of the State between India and Pakistan. After lapse of such a long time since the unimplemented UN resolution on Plebiscite, the solution to Indo Pak conflict on Kashmir might emerge, some hoped. According to them, conversion of present Line of Control, into an International border between the two countries India and Pakistan, was one such solution. They suggest some minor adjustments for a smooth demarcation of International border between the two countries. This is conditioned if Indian Parliament passes a unanimous resolution, modifying the previous one passed by it unanimously, declaring the whole State of Jammu and Kashmir as an integral and inalienable part of India.

It may be possible only if Pakistan comes to this decision finally and appeals India publicly to this effect and is welcomed by UNO. Otherwise, India can neither submit nor yield before pressure or violence; whatsoever. If it comes to that, and that unfortunate day will prove disastrous. What action Pakistan takes or commitment makes against India and her territorial integrity, it is bound to evoke many times more strong reaction than the action of Pakistan. Those who underestimate India's power and valour, are grossly mistaken. The sober posture and humble approach of her people and the Government is humility of humanity, and not outcome of any fear of vulgarity. India is no doubt, brought to current situation mainly by Pakistan and if it worsens further, she has to grapple with that eventuality also and fight that out with the support and good wishes of peace loving, fair, and unbiased forces and countries of the world.

It may be noticed that the holding of Plebiscite in the State of Jammu and Kashmir was not absolute but conditioned upon some positive acts being performed and steps taken by Pakistan. She was in the first instance, bound to vacate and clear the occupation of the

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[248] T.N.Kaul, Reminiscences, P. 164.

territory of the State. It was the condition precedent for Pakistan alongwith withdrawal of her Army from the State territory. It was then to be followed by other measures, like India taking steps to appoint the Plebiscite Administrator to conduct plebiscite. While the Government in Indian Kashmir was to operate and continue, Pakistan had no say in the Plebiscite, not even in the so called "Azad Kashmir" area, which was not within the administrative control of India. Government of India in her complaint about the raid and attack committed by Pakistan on the territory of Jammu and Kashmir stated about holding of Plebiscite in the State. It was though beyond their legal capacity and authority to commit in the complaint, which inter-alia, says:

> *"In order to avoid any possible suggestion that India had utilised the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invaders and normal conditions restored, its people would be free to decide their future by the recognised democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices."* [249]

It was an ultra democratic gesture on the part of Government of India, without mandate of law. It was, therefore, politically farce and legally devoid of any force. After valid Accession of the State to India, the issue of Accession under any cover, mechanism device, scheme or commitment, could not at all be reopened. If it were held legally a valid promise and factually a binding commitment, then the whole process of Partition of India has to be first undone and reversed as already explained in this book. The creation of Pakistan itself in 1947, was not the outcome of any plebiscite: it was a despotic and arbitrary design of the British Government, implemented by the Act of the British Parliament, Indian Independence Act of July 1947. Knowing it fully well that the overwhelming majority of the Indians including a sizable number of Muslims was against the Partition and formation of Pakistan yet it was created under the Act, which empowered the princes to Accede the Dominion of their choice.

The Indian Independence Act aforesaid, did not envisage, ratifying or reversing of the Accession, by holding the Plebiscite. This has been anti thesis of Partition of India, lacking sanction of law. This has been the consistent stand and the clear admission of Mohamad Ali Jinnah and the Muslim League, before India moved complaint against the aggression of Pakistan, in the Security Council. The Indian Independence Act cannot be valid and worth following as far as creation of Pakistan is concerned and non-operational and invalid as far as it relates to the prince's

[249] Complaint dated January 1,1948, by Indian Government to the Security Council, (UNO) (5/628).

Accession to India. Either the Indian Independence Act was wholly unlawful and non-workable or it was operative and validly workable in its totality. The latter view is more plausible legally.

Even the Prime Minister of India and his whole Government could not make any valid commitment against the letter and spirit of the Indian Independence Act. Any promise of Plebiscite, therefore, was and is not enforceable by any Court of law or any other Tribunal, Forum or Institution, nor they can, of their own, impose any such condition for implementation in contravention to the provisions of this Act. The Doctrine of Estoppel is not applicable against the unambiguous provisions of the law, Statutes and the Indian Independence Act.

In Para No. 7 (2), of the complaint, however, India emphasised on Accession of the State of Jammu and Kashmir to India, which in the backdrop of what has already been put in black and white herein before, automatically washed off the utterance about Plebiscite. It said, *"The Accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State."*[250]

Pakistan therefore, feared that by vacating the occupied territory of the State, she might lose that also later, as she has absolutely no locus standi in the State of Jammu and Kashmir. She is occupying a part of the State territory illegally and only by aggression in contravention to the Indian Independence Act, 1947, and in breach of International law which also the UN did not respect by not speaking a word against this shameful Aggression as if the people of the State were chattles to be looted, land cleared and forcibly occupied. In other words, the UNO also tacitly stood by this Pakistani State hooliganism, lawlessness, vandalism and the defiance of the Rule of law. It is not a good reflection on reputation and the cause, that the UNO wields and stands for.

Pakistan having no claim and right whatsoever, over the State of Jammu and Kashmir, even then the UN pushed the Resolution on Plebiscite as indicated in the foregoing pages. It sought to reopen Accession Issue illegally and against the provisions of Indian Independence Act as well as in suppression to the Instrument of Accession executed in favour of India which could not be done under the law. Plebiscite was legally redundant and meaningless. That apart, the State Assembly elections were also a means to acertain the public opinion which were fought as a part of India. In other words, the Constitution of Jammu and Kashmir and the elections publicly endorsed and accepted the Accession of Kashmir to India.

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[250] Complaint dated January 1,1948, by Indian Government to the Security Council, (UNO) (5/628).

The right to "Self Determination" also has absolutely no relevance in this case, nor is permissible. Despite America admitting in the UNO, Kashmir's valid Accession to India, no attempt was made to withdraw the Plebiscite Resolution though allowed to remain there only to die out with the passage of time. The US representative, Warren Austin, speaking in the Security Council on February 4, 1948, admitted State's Accession to India in unambiguous words and said:

> *"The external sovereignty of Kashmir is no longer under the control of the Maharaja---- with the Accession of Jammu and Kashmir to India, this foreign sovereignty went over to India and is exercised by India and that is why India happens to be here as a petitioner."*[251]

The representative of the United Kingdom of Britain, Neol Baker also tacitly admitted the Accession of Kashmir to India, and expressed that what India desired, they also wanted that against Pakistan but without doing anything tangible in this regard. While speaking in the Security Council on February 10, 1948, the British representative, referred to the speech of Indian Representative Gopalaswamy Ayyangar and endorsing him said:

> *"He wanted drastic action taken by Pakistan to stop the fighting. We all want drastic action taken by Pakistan to stop the fighting ---- He (Indian Representative) said that he wanted specific obligations to be laid on Pakistan about the tribesman, about the volunteers from the Punjab and about the other matters which he mentioned. We all want obligations as specific, as comprehensive, as the Indian delegation desire."*[252]

Despite U.S.A. and British being convinced that Pakistan was Aggressor, still they showed their inability to do any thing in the matter except to emphasise on Plebiscite. The Security Council played, therefore, partisan role under the influence of Anglo American Block, defeating Justice, they pampered wrong doer, without meaningful, fair and Just disposal of the Indian complaint.

Prime Minister of India, Jawahar Lal Nehru, asked for certain confirmation and clarification from the Chairman of the Commission, regarding the Resolution of 13th August 1948 passed by the Security Council. The letter said:

> *"We should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before your Excellency:*

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[251] S.C O.R. Nos 1-15, P371
[252] Ibid. Nos. 16-35, P. 106.

(1) That Paragraph A-3 of Para 11 of the resolution should not be interpreted or applied in practice, so as
(a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;
(b) to afford any recognition of the so called " Azad Kashmir Government"
(c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.—
(d) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organisation and conduct of the Plebiscite or in any other matter of internal administration in the State.
(4) ------- In fact, you made it clear that the Commission was not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government-------
Finally, you agreed that para III as formulated, does not in any way recognise the right of Pakistan to have any part in a Plebiscite." [253]

In his reply dated August 25,1948, the Chairman conveyed to Nehru as under:

"The Commission requests me to convey to your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincide with its own interpretation of the resolution, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term " evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command." [254]

Pakistan was not required only to withdraw first her Army from the territory of the State, she was to evacuate all tribesmen and her nationals also. Whereas the over all administrative responsibility of the State was with the Jammu and Kashmir Government and the responsibility for security and defence of the State

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[253] Prime Minister, Nehru to Chairman UN Commission on India Pakistan, vide letter dated 20th August, 1948.

[254] Chairman of UN Commission to Prime Minister, Nehru, vide letter dated 25th August, 1948.

was with the Government of India. Vide Resolution of the Security Council of 21 April 1948, Pakistan was asked :

> Para 1 (a) *"To ensure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to these fighting in the State."* [255]

Not to seek compliance by Pakistan of the terms and conditions of the UN Resolutions, but has committed, all along flagrant violation of the UN Resolutions. Even now Pakistan follows this Policy and the UNO shields and protects her. She openly started terrorist camps in Pakistan and occupied Kashmir, and imparted training to the locals and prepared them to fight in the State of Jammu and Kashmir and kill the people there. She facilitated passing through Pakistan territory, into the State of the foreigners to fight in Kashmir. This fact is known to every one but Pakistan and her mentors keep their eyes closed purposely in order to benefit her thereby.

Pakistan could never demand or press for plebiscite in Jammu and Kashmir under Indian Independence Act, 1947, to which she owes her existence. If she does, that would amount to violating this Act and denying her legal existence. In that way she loses the right to exist as a separate entity and the world shall have to take notice thereof to derecognize Pakistan.

Pakistan did not fulfil even a single condition, she thereby actually defied and discarded the Resolution on Plebiscite willingly. She did not dare to pull out her army from the State territory occupied illegally. Plebiscite was, meanwhile, held in Gurez sector of Kashmir. For drawing a Ceasefire line there; plebiscite was held between the two thickly populated villages around July, 1949, to express their choice whether they wanted to remain with India or with Pakistan. This full-fledged opinion poll was conducted in presence of Army and civil officers of both the countries and under the supervision of United Nations group of Observers. This Plebiscite was conducted fairly and impartially in the Valley of Kashmir, near and adjoining Pakistan occupied Kashmir.

It was a test case for both, India and Pakistan. The holding of overall Plebiscite in the State in future depended mostly on the result of this Plebiscite, as it was a trend indicator. The result of this Plebiscite, however, gave a severe jolt and set back to Pakistan. She met a crushing defeat there. India won this Plebiscite and Pakistan lost it

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[255] Security Council, Resolution, dated 21st April,1948.

miserably. She, therefore, never dared to fulfill the conditions precedent for Plebiscite and intentionally made holding of Plebiscite in the State not possible but kept this slogan only alive and exploited it to achieve some petty political and other gains instead. In 1965 war, India captured Hajipeer area of Pakistan occupied Kashmir, near Uri Sector. According to reports the population of that area was so happy to come within Indian Domain that they were openly expressing not to send them back to so called "Azad Kashmir". They were astonished to receive all essentials of life and other supplies which they were not supplied there when with Pakistan. That area had to be returned to Pak Kashmir due to Tashkent Agreement.

Shyam Lal Saraf has authentically written about Plebiscite in Gurez Sector. After describing the total failure of Pakistan Government to comply with any agreed conditions, he says:

"From the above conditions it will be seen that not a single condition has to this day been fulfilled by the Government of Pakistan. But all the same she has been crying for a Plebiscite day in and day out. While accepting the ceasefire in the areas of Jammu and Kashmir, in accordance with this agreement, on the part of India and Pakistan, a ceasefire line was being drawn that has been in existence for the last sixteen years, very important incidents occurred which have had important bearing on the question of Plebiscite.

In Gurez area of Kashmir, where population is cent percent Muslim, the said ceasefire line was being drawn in the middle of two thickly populated Villages known as Tavbhat and Kilchi. The representatives of Government of India and Pakistan, both Civil and Military, and also the United Nations Observers unanimously decided on the spot, that the disposal of the population of the said two villages, be decided, by a plebiscite. The population of these villages were given two options-either they vote for going to India or to Pakistan......when votes were cast by the said people, the entire adult population both men and women voted for India except three individuals who did otherwise......This was a pointer then, and a pointer now as to which way the wind blew and continues to blow in the State of Jammu and Kashmir." [256]

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[256] Sham Lal Saraf, Unknown facts about Kashmir, Kashur Gazette, Delhi, dated February 10, 2001. Late Saraf was a first rank leader of Jammu and Kashmir National Conference. He was arrested in May, 1946 also in connection with Quite Kashmir Movement launched by Sheikh Mohd Abdullah against the Mharaja and was the only other leader who stood trial for sedition alongwith the Sheikh and both incurred the same conviction and the sentence. Shamlal Saraf was also Cabinet Minister for many years in National Conference Government. He was member Parliament (Lok Sabha) as well from Kashmir for some time.

For failure to hold Plebiscite in the State, the exclusive fault lay with Pakistan. She did not like to do her part of the job which was condition precedent for taking further steps to hold the Plebiscite in the State. Option open to the people in the plebiscite was either to choose India or Pakistan and no third option like "Independence" was available as was done in the Gurez sector. Pakistan not chose to fulfil her part of obligation and so rendered Plebiscite Resolution inoperative and incapable of execution, wilfully. This slogan can not be dragged on simply to allow the interested parties chance to exploit it. Such matters are not permitted to remain in a state of drift for long and indefinite period. After lapse of even over half a century, Pakistan failed utterly to discharge her obligations, burying thus the Plebiscite Resolution of the UN for good. Pakistan has thus, no right to talk about Kashmir and even about Plebiscite. If she does, she would be interfering with the sovereignty of India in Kashmir. Shyam lal Saraf says further in this regard:

> *"It is a matter for very serious thought that when one party to the agreement, is not in a position to fulfill the conditions precedent to carrying out the agreement, how can that agreement stand and how and in what way Pakistan or its supporters have a cheek to blame India for not holding the Plebiscite?*
> *Now that the agreement of Plebiscite was not carried out, as stated above, it is a matter of honest consideration, whether a State with a population of four million then and more than five million now, could be left hanging in the air, for the last eighteen years and told to sit quiet and not to move till , in the thinking of Pakistan, a Plebiscite according to its whims and likes could be held in the State."*[257]

Knowledgeable circles, Governments, authorities and leaders are aware that the Plebiscite Resolution of Security Council is dead and buried long past by deliberate and calculated omissions and commissions of Pakistan. To raise this slogan every now and then, is like a seasonal fits overtaking a diseased body. It is mere exploitation in frustration to befool their innocent citizens and people, and also the world at large as Pakistan Government has been doing it all through which their misguided agents echo in Kashmir. And those who raise this slogan without knowing the facts and realities, become tools in the hands of either exploiters or self deceptionists. In case, these people have any grievance that can be against Pakistan Government which has fed them all along on false and wrong slogan, putting them thereby on a path of self destruction by pursuing a thing which is no more there. These people and quarters, if

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[257] Shyam Lal Saraf, Unknown facts about Kashmir, Kashur Gazette, Delhi February 10, 2001.

aggrieved, may settle scores with Pakistan Government and not with India, whose position is otherwise also sound, strong and unassailable both, nationally and internationally. After the execution of the Instrument of Accession by the Maharaja, the demand for Plebiscite had no value. It could not be legally urged, allowed or held and conducted.

This being the true position, what legal and constitutional status Pakistan then holds and possesses in the State of Jammu and Kashmir as against India? No position or status other than Aggressor and "Perpetrator of Genocide of Non-Muslims of Jammu and Kashmir". India is in the State because of legally valid Accession and not as an "Aggressor or trespasser". Pakistan cannot be equated with India which has sovereignty over the State of Jammu and Kashmir, being unit of Indian Union. UNO has neither accepted so called " Azad Kashmir" as an independent unit, nor has recognised Pakistan having any occupancy right over this area nor is entitled to administer it.

Pakistan not fulfilling the conditions precedent for holding the Plebiscite in the State of Jammu and Kashmir, she thought it sufficient and preferable to usurp the areas under her occupation. She also annexed directly Gilgit Frontier area of the State. The residents of this area have been deprived even of right of franchise. Out of nothing, Pakistan has come to occupy a large area of the State illegally and without any claim. Why should she have run the risk of Plebiscite? Taking advantage of ignorance of various countries and such peoples of the world including her own, from the real facts and imposed conditions, Pakistan exploits and harps on the tune that India is not holding Plebiscite. Instead of confessing her bluffing, Pakistan always tried to throw her blame on India.

Even if Pakistan were to comply with the prior conditions, enabling to hold the Plebiscite in the State, India had then to see to the rehabilitation of the dislodged non- Muslim population, in their respective places for ensuring their effective participation in Plebiscite at their places. It, obviously, means and includes the reconversion of the Muslim converts to their original religion, so that they could exercise their choice freely without being under subjugated and suppressed condition as they are living there now under anti India and anti Hindu/ Sikh atmosphere. If it could not be done, there would have been otherwise no Plebiscite, as it would not be a fair plebiscite. According to reports, there was wholesale Genocide of Hindu/ Sikhs of these areas by Pakistan and their local serviles. They were killed all other than those who embraced Islam under threat and were, therefore, allowed to live as Muslims there. They were slaughtered and massacred brutally by bullet shots, spears and by cutting into pieces by swords, axes etc. Only a small number of fleeing

non-Muslims could survive to reach a so far place in the State or to other parts of India outside the State. How can they be found to avail of their choice in Plebiscite, if it were conducted? The holding of Plebiscite was, under the circumstances, a farce slogan and frivolous decision. In any case it is no longer surviving now.

A piquant situation, however, arose when cease-fire decision was taken by UN and the same was to be effected and enforced. Pakistan had denied any hand in the invasion of Kashmir. With whom then this ceasefire could be and was to be effected? Could it be implemented between India and the unidentified raiders who were today in the territory of India in Kashmir and back tomorrow in their native place in NWFP or in West Punjab (Pakistan)? The question of ceasefire in fact, did not arise. It was the simple question of repelling the raiders and their attack and driving them out from the Indian territory in Kashmir. Western Powers, therefore, played a political mischief and passed Ceasefire Resolution.

Pakistan had to concede, therefore, that her army was in the State territory and the UNO took a belated notice of presence of Pakistan army in a part of the State which established Aggression of the State of Jammu and Kashmir by Pakistan. The UN, however, was still loath to take action against Pakistan on this flagrant violation of International law and deceiving UNO by making a false statement that she had no hand in raid/ aggression. Convinced at this Aggression, organised by Pakistan, UNO made Pakistan, a party for purposes of Ceasefire and not for taking action against her for Aggression on India, in the State of Jammu and Kashmir.

It is how these Western Powers, having dominating influence on the UNO, brought Pakistan into the forefront of conflict from the back door, as a pretentious claimant thereto. As such, a calculated effort was made by these powers to create a problem over Kashmir between India and Pakistan and hold up India at Ceasefire line which has neither any Justification, nor any sanctity. If this bloody line is not obliterated or freezed as a permanent border between India and Pakistan as the case may be, India has every right to wipe out this Ceasefire line as and when she chooses. This ceasefire was effected by the UNO between India, whose forces were advancing to get the Aggression vacated and the Aggressor Pakistan, to augment the conflict and perpetuate it by keeping the Ceasefire Line alive without giving chance to India to drive out the Aggressor and clear the territory of India in the State of Jammu and Kashmir.

Nevertheless, lapse of over half a century notwithstanding, the said Ceasefire Line has come to stay so far but under

Crossfire generally. The two armies of India and Pakistan face each other on either side of this Ceasefire Line, known now as Line of Control.

However, by this the status of Pakistan could not be improved legally, from one of Aggressor to that of a genuine claimant party. The joint statement made by India and Pakistan at Shimla, after the defeat of Pakistan in 1971 war, the jurisdiction of United Nations has virtually been ousted over Kashmir. This Indo Pak Joint declaration has categorically made it known to the world that India and Pakistan would resolve all their outstanding Issues including Kashmir peacefully and bilaterally. It has left no scope for UNO to meddle in the Kashmir Affairs any more. If Pakistan does not mend her fences, the Kashmir issue may snowball into a major war. For recalling the raiders from Kashmir by Pakistan, stressed by India in the Security Counsel, the USA had given an illogical reply to shield Pakistan. Warren Austin, US representative, had said:

> *"There is nothing within our vision that will induce the tribesmen to retire except such an arrangement as that."(Plebiscite)*[258]

It was done only to buck up Pakistan as against India. The US representative

> *"went much further and expressed the view that India could not expect the Council to take up a position which would amount to that of an ally in war, and should pull off Pakistan and allow India to finish the Job by force against the tribesmen? Here was an admission of Pakistan's aggression, for Pakistan could not be "pulled off" if it was not playing some part in the invasion. Why the US representative preferred to support the law- breaker to the law abiding, passes understanding, particularly after he had reaffirmed the legality of Kashmir's accession to India."* [259]

The funny thing is that USA treated Pakistan as its ally and subsequently on her joining SEATO AND CENTO, she became a formal ally of USA. The latter had to side with Pakistan, even though it was unjust and unfair. Prime Minister of India, Jawahar Lal Nehru, caught the USA block and now their formal ally, Pakistan in a trap in the light of aforesaid statement of Warren Austin in the UNO.

Nehru found a valid reason to react against the Anglo American Powers, treating their role to be partial and partisan in favour of their ally-Pakistan and prejudicial to their non-ally, India. Nehru declared the situation as changed and impliedly withdrew the agreement on Plebiscite. There has been, therefore, no agreement surviving about

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[258] S.C.O.R Nos 16-35 P. 76

[259] B.L. Sharma, The Kashmir story, P-31.

Plebiscite from March 20, 1956 onwards, when Prime Minister Nehru spoke against it. He said:

"......*We were discussing various ways with the Prime Minister of Pakistan and a new development took place. This was the promise of military aid from the USA to Pakistan- a promise which was subsequently fulfilled. This created not only a new military situation but a new political situation; and the procedure thus far followed by us became out of date and had to be viewed afresh. That situation has become progressively worse because of the flow of the military aid to Pakistan and the conclusion of CENTO and the Baghdad Pacts.*"[260]

It was otherwise also Indian Government's political magnanimity and faith in secular democracy to offer plebiscite unilaterally. It bordered on political mistake and recklessness which disparaged country's interests and also helped create an unfounded conflict about Kashmir out of nothing. As such, plebiscite was not a bilateral subject and agreement. The Government "had went out of way" as Prime Minister of India, Nehru himself put it as a "*unilateral declaration that he would abide by the will of the people of Kashmir as declared in a Plebiscite or referendum*"[261]

After the above new situation was developed, a great Indian leader, Jai Prakash Narayan also denied the relevance of referendum in Kashmir. This was the cry of Indian Nation against the Plebiscite which had no basis, much less legal, which echoed inside and outside the Parliament. Jai Prakash Narain said:

"......*since Pakistan joined SEATO and CENTO and the USA supplied it Arms and other things happened, the situation became so transformed that the offer of referendum stood no longer......*

In view of all this it appears to me that the right and constructive approach is not to----- assert that the right has already been exercised, but to show rationally how impractical and imprudent it would be to exercise that right now" [262]

After Sheikh Mohamad Abdullah was deposed on August 9, 1953, his confidantante and a top ranking leader of National Conference, Mirza Mohamad Afzal Baig, had organised Plebiscite Front, demanded holding of Plebiscite in the State.

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[260] Prime Minister, Jawahar Lal Nehru's speech about Kashmir in Lok Sabha on 20th March, 1956.

[261] Jawahar Lal Nehru's statement in the Indian Constituent Assembly on March 5, 1948.

[262] Jai Prakash Narayan, The Hindustan Times, New Delhi, May 15, 1964.

Alongwith slogan of " Plebiscite" the slogan of "Right to Self Determination" also was raised off and on. Elections were boycotted by Plebiscite Front(Mahaz-i-Raishumari) for all this long period. Sheikh Mohamad Abdullah became Patron of Plebiscite Front and Baig, the founder President. It is an instance as to how the liberal and unsolicited offer of "Plebiscite" by Government of India devoid of political sagacity, cost heavily to the country. The Indian Nation in general and the Kashmiris in particular had to pay politically for this from their nose. After Pakistan's gruesome aggression and unprecedented carnage in the State of Jammu and Kashmir, non-Muslims in particular and Kashmiris in general, were again gripped with political uncertainty.

Hankering after Plebiscite, Sheikh Abdullah and his other Plebiscite Front people remained in political wilderness for about 22 long years. Pakistan, however, did not oblige any one except herself, by failing the Plebiscite Resolution. In 1972, Sheikh Abdullah convened a 4 day special, People's Convention on Jammu and Kashmir in Srinagar, of political leaders and activists belonging to different political hue and colour, thinkers, Journalists and intellectuals to read a paper each and to offer solution to the Kashmir situation. Among the diverse views and reasoning advanced and pleaded for, the over all opinion and inference was in favour of India. Only a few papers were in favour of Pakistan, not even the Paper of late Moulvi Farooq . Sheikh Abdullah made up his mind on this basis and decided to return to the mainstream politics along with Mirza Mohamad Afzal Baig and the followers of Plebiscite Front.

The Plebiscite and self determination slogans were discarded for ever. The Centre was consequently approached for joining again the mainstream politics of the Country. G.Parthasarthy and Mirza Afzal Baig talks ensued. The former represented Prime Minister, Indra Gandhi, and the latter, Sheikh Mohamad Abdullah. The success of these talks culminated into Sheikh – Indra Accord, 1975. On 25^{th} February, 1975, Sheikh Abdullah was sworn in as Chief Minister in the Congress majority Legislature of the State and Afzal Baig as Cabinet Minister. The people rejoiced the occasion and chanted everywhere "Alleh Kareh - Wangan Kareh, Bab Kareh - Bab Kareh. (Whatever fatherly Sheikh Abdullah likes to do with Kashmir, we are with him and for it). So the jubilant masses heartily welcomed Sheikh Abdullah's joining mainstream after long political wanderings. The Indian flag that was unfurled in Kashmir long back, was saluted by him to hold it aloft.

The slogans like "plebiscite and self determination" were dead and buried for all times to come and the Plebiscite Front (Mahazi-Raishumari) was wound up as if it never existed in Kashmir. The environmental political pollution that was

created by these slogans in Kashmir, were regarded by the votaries of these slogans as self consuming and destroying Kashmir. They, therefore, stopped these politically injurious and unproductive slogans at once on rejoining once again the mainstream, so as to keep the political environment of Kashmir free from pollution.

The Anglo American Powers came to realise, by and by, that the Plebiscite Resolution was not justified. With the lapse of long time and other developments that occurred, there was a material change in the situation, rendering the plebiscite on this ground also, obsolete and unworkable. These powers started making a departure from its adherence, though not from the basic inimical and prejudicial policy towards India. It was particularly so, when the terrorism showed its ugly face in Kashmir, and the Kashmiris, specifically Kashmiri Hindus, were massacred in large number and hounded out of their homes enmasse from the Valley. UNO and these powers gave their mind, therefore, that the Plebiscite Resolution of UNO had become defunct. Indian Foreign Secretary, Muchkund Dubey met Secretary of State, James Baker and other US officials in March 1991 and wanted to know, among other things, the latest US views on the Plebiscite Resolution. The Indian Foreign Secretary talked to media persons, after conclusion of his talk and said:

> *"The US administration, stuck to the position, as had been explained by US Assistant Secretary of State John Kelly during his congressional testimony recently that America no longer supported Plebiscite on Kashmir and wanted the problem to be settled by India and Pakistan under the Shimla accord."* [263]

A spokesman of the Bush Administration further stated:

> *"Our policy on Kashmir has not changed. The US State Department also made available the transcript of Mr Kelly's testimony of March 6, 1990"* [264]

The changed American opinion on Plebiscite has been reflected in some other statements of US Administration as well. In a congressional paper, prepared by Richard Cronin, a Specialist in Asian affairs and Barbara Leith Lepoer, Senior Technical Information Specialist, have also pointed out irrelevance of Plebiscite Resolution on Kashmir. Referring to the paper, a press report says :

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[263] UNI news circulated to the press on March 23,1991.

[264] Samachar Post, Delhi, 29 March, 1991.

"The Plebiscite, as envisaged in the United Nations resolutions of 1947 and 1948, had virtually lost its relevance as a solution to the Kashmir problem." [265]

President Bill Clinton of USA, categorically rejected Plebiscite in Kashmir. It was for the first time that the President of USA announced about irrelevance of Plebiscite in Kashmir. A PTI news report from Washington said:

"Rejecting Pakistan's demand for Plebiscite in Kashmir, US President Bill Clinton today said a lot had changed since 1948 UN Resolution on the subject and affirmed that he was opposed to violence in Jammu and Kashmir propagated by elements within the Pakistani Government." [266]

U.K also supported India under the changed circumstances and denied relevance of Plebiscite. A press report from London said:

"Britain has for the first time supported the Indian position that the Shimla Accord superseded earlier India-Pakistan agreements on Kashmir. In a categorical statement here on Kashmir, Britain has urged Pakistan to avoid any steps that might appear to confirm India's position that militants in the Valley received armed support from Pakistan." [267]

While speaking in the House of Common's Mark Lennox Boyd, Parliamentary Under Secretary of State, Foreign and Commonwealth, condemned militant's violence in Jammu and Kashmir and voiced support for India's efforts to deal with the terrorist threat:

"......much has happened since India and Pakistan originally agreed to a Plebiscite covering the entire princely State as set out in the United Nation's Resolutions in the late 1940's and 1950's, Lennox Boyd said that since then India and Pakistan has reached a fresh agreement in 1972, pledging to settle the differences peacefully and bilaterally and committing themselves to a final settlement of the issue. So the earlier agreement was superseded by the 1972 Agreement" [268] he said..

Russia had, from the very beginning, given an account of fairness excepting in 1965 Accord towards India in regard to Kashmir situation. Russia showed maturity and understanding of her problems and the hurdles in tackling and solving them. As such, Russia

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[265] Times of India , dated 23 September,1991.

[266] PTI news report circulated to the press on 22nd March 2000, based on President Clinton's interview to US Television network ABC.

[267] Excelsior February,1991

[268] Ibid

supported India in Security Council. On their visit to Kashmir, Bulganan and Kruscheau reiterated Russian stand in 1961, confirming Kashmir's Accession to India. Since 1948, Russia never wavered in their stand in respect to India on the matter of Kashmir.

> *"Post - Yeltsin Russia is firm in backing India on Kashmir and combating trans-national terrorism, Russian Duma Speaker Gennady Seleznyov has said. Russia firmly stands for territorial integrity of India and supports its stance on resolving Kashmir issue on the basis of Shimla Agreement of 1972."* [269]

President Boris Yeltsin himself also declared Russia's full support to India on Kashmir:

> *"President Boris Yeltsin today extended Russia's full support for India's position that Kashmir is its integral part and promised to back it in the United Nations Security Council on this Issue.*
>
> *......He emphasised that Russia would do its utmost to uphold India's Sovereignty and integrity...... Mr Yeltsins stand confirm to that taken earlier by the former Soveit Union which fully backed India's position in the UN Security Council that Kashmir, being its integral part, was not negotiable."* [270]

Boutros Boutros Ghali, United Nations Secretary General enlightened common person in the world, when he was in office in 1993, about the limitations in the functioning and using powers by the UNO with respect to the disputes. He said:

> *"United Nations could not intervene in a dispute unless both the "Protagonists" involved asked for intervention. Even in Bosnia or Yugoslavia, he explained, the United Nations was finding it difficult to get involved in the absence of requests from all the "protagonists" involved."* [271]

The UNO also felt its responsibility to apprise the people world over, of the real position about the role and resolutions passed by the UNO regarding the State of Jammu and Kashmir. They rent asunder the curtain of ignorance for the exploited people and impliedly cautioned the world from drawing wrong inferences and meanings.. The Secretary General of UNO, Dr Boutros Ghali indicated collapse of the Plebiscite Resolution. He expressed surprise on September 19, 1994, on the tendency of wrongly interpreting the "United Nations role and resolutions". He pointed out that the resolutions on Kashmir were just

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[269] Times of India, 28 February, 2002.
[270] Hindustan Times, 29 January,1993.
[271] P.T.I news report despatched on February 18,1993.

"recommendations". This means that Resolutions of the General Assembly are not binding"[272] on India and Pakistan, he said.

Kofi Anan, the successor Secretary General of UNO exposing Pakistan's exploitation of Plebiscite resolution and clarified it in plain terms and set at rest all controversy in regard to Kashmir for all times to come. He also termed the Resolutions on Kashmir defunct:

"While Pakistan technically and ritually expresses its adherence to the agreement (and wrongly to the defunct United Nations Resolutions on Kashmir) and promises to stand by the agreement, it tries systematically to subvert and disregard its terms and internationalise the issue."[273]

With this, the slogan of "Self determination" viz-a-viz Kashmir also went into oblivion which was not applicable otherwise also to Kashmir. This right is not available to the natives of a part of a sovereign country, nor to inhabitants of any place who are not under an alien rule like a colony. Constitutionally Jammu and Kashmir is an integral part of India and its people are the citizens of India with no right to secede. As such, no such principle could be made applicable to this State;

"If the principle of self determination were to be applicable to Kashmir, a part of India, apart from International law, there would be no Justification for refusing similar rights to Wales, Scotland and Ireland by Britain, Brittany by France, Quebee by Canada and to the Flemish people by Belgium and so on. Neither Turkey nor Iran nor Iraq have conceded the right of self- determination to the large number of Kurds living in these countries, on the grounds that the areas occupied by these people are parts of sovereign territories, which cannot secede."[274]

A British Jurist, Prof Maurice Mendelson has said "Kashmiris do not have the right of self determination or secession".[275] The people affected by religio political exploitation by such like slogans, must try to adopt realistic attitude and not to go astray. They ought to protect themselves from this exploitation and refuse to submit before them.

UNO also does not admit of right of a section of the population in a Sovereign country to any demand for right of self determination. In the light of their committed stand and assertion, such demands of right to self determination are against the concept of nation's solidarity and countries integrity. In view of the International law, the slogan of right to self determination for Kashmir is without basis and non operational.

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[272] R.N. Kaul, The Wail of Kashmir, P118.
[273] Ibid.
[274] Ibid.PP 112-113
[275] Prof. Mendleson in Human Rights in Kashmir- Report of a Mission, London, 1995.

CHAPTER – XIII

MUSLIM TERRORISM IN THE STATE

Partly due to the misdeeds of Kashmir Government, with or without connivance of the Centre, and partly owing to consistent efforts of Pakistan Government from the inception, large scale terrorism is experienced in the State today. It raised its ugly head in the present form in 1988.

"And it is then that, for the first time in Kashmir, two bombs went off outside the Central Telegraph Office (CTO) and the Doordarshan (Indian T.V) Centre in Srinagar in the night of 31st July 1988, shattering the calm of the serene Valley."[276]

Some unhappy occurrences of this type had taken place in the Valley earlier also but could not continue over a period in the form and the manner as the current one. While the previous attempts of Pakistan Government had failed in this regard, this time it asserted as some local youths willingly joined and participated in it. The State Government showed criminal negligence in dealing with it sternly, purposely or otherwise and the Central Government exhibited culpable negligence. The serious, volatile and disastrous situation was coming up, and instead of applying the principle of "nip the evil in the bud," they allowed it to grow and spread. The attitude of the Governments towards this new Phenomenon appeared, therefore conciliatory, if not contributory, to say the least.[277]

It caused demoralisation in the ranks of Kashmir police force. They could not take, as such, any initiative to curb it and maintain law and order, but exposed themselves to risks. After passing through different stages, the terrorism overtook the whole Valley. Killing of selected Hindus by the terrorists initially was followed by their indiscriminate assassinations, without consideration of fault or no fault. It was a step further by the terrorists, obviously taken under the command of ISI of Pakistan, seeking elimination of Hindus from the Valley.Terrorist groups sprang up as formulated by Pakistan, a mushroom growth of these overnight. It was with the view to ensure the continuity of terrorist activities, even if one group or

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276 Zafarul Islam Khan, Wounded Valley, P.38.

277 For more about terrorism, the killing of Hindus in Kashmir, read the Author's book, "Crisis in Kashmir".

any group or groups slackened, submitted or surrendered, the other groups would continue to operate. The armed insurgency was, however, commenced by Kashmir Liberation front (KLF) which was later converted into Jammu and Kashmir Liberation Front (JKLF).

The first commanders of Kashmir Liberation Front included Hamid Sheikh, Ishfaq Majid Wani, Javid Mir and Yaseen Malik. This group was known as Haji group as the first letter of their names, formed word "Haji". This terrorist group, JKLF is, however, against Pakistan and in favour of "Independent Kashmir" comprising the whole area of the State as it had on 15th August, 1947, the day of Indian Independence and partition. This Stand of JKLF sounded again a shock to Pakistan. This outfit supported insurgency by Pakistan, but went out of her hands. She, therefore, created numerous terrorist groups to advocate and fight for Pakistan directly. In this context, she deemed it necessary to escalate terrorism to the other parts of the State, thus trying to oppose the demand of "Independent Kashmir" by raising the counter demand for Pakistan through the terrorist groups under Pakistani's direct command and control.

Apparently, Pakistan extended the scope of terrorist activities to the whole State and beyond the limits of the Valley as well as the ethnic group of Kashmiri Muslims. The KLF was comprising Kashmiri Muslim Youths who were joined later by some other Kashmiri young Muslims, owing allegiance previously one way or the other, to National Conference and Chief Minister, Dr Farooq Abdullah.

Kashmir Liberation Front was, in fact, founded way back in or around 1970 in Pakistan by Mohamad Maqbool Bhat, Hashim Qureshi and some others. This Front was formed primarily to separate and liberate Kashmir from India. Its first rank leaders in Pakistan including Dr. Farooq Abdullah, took an oath of loyalty to this Front there in a film style:

> *"In 1972, the activists of Liberation Front in Rawalpindi (Pakistan) took an oath of office and secrecy. This ceremony of taking oath for loyalty, was held in a film style. The prominent leaders and activists of the Liberation front including Aman Ullah Khan, Raja Muzaffar, Dr.Farooq Hyder, Dr.Farooq Abdullah (now former Chief Minister of Jammu and Kashmir) and others placed hand over flame of a burning candle. They vowed to struggle till the goal of Independent Kashmir was achieved. These leaders of the Front struck their right palm one by one, with a sword and used the blood coming out, as ink and signed the oath form with it."*[278]

[278] Syed Sikandar Shah Kashmiri, " Jang Maghar Jari Hai", P.55. This book (in Urdu) is written on the life and activities of former terrorist and MLA, Mohamed Yousuf Parray popularly known as Kuka Parray. He became a legendary hero when he

Mohamad Maqbool Bhat and some of his group members had, by and large, consistently embarked upon terrorist activities. Hashim Qureshi and his another colleague hijacked Indian Airlines plane on flight from Srinagar to Delhi in early seventies. It was forced to land at Lahore (Pakistan) Airport. The hijackers demand was to release all Kashmiri political prisoners arrested and detained in various prisons in connection with the seperatist activities. The Government of India did not accede to this demand. Consequently, the plane was set ablaze. It is, however, said that the KLF activists of the genre of Mohamad Maqbool Bhat, were double agents. So far as they were not in favour of Kashmir's merger with Pakistan, they were nearer to India to that extent. And as far as they believed in secession and were in favour of "Independent Kashmir", Pakistan owned them to that extent.

Maqbool Bhat was convicted and sentenced to death in terrorist related activities in Kashmir and was finally executed at Tehad Jail Delhi in 1984. Dr Farooq Abdullah had taken the cover of his Chief Minister father, Sheikh Mohamad Abdullah and was later even rewarded and installed as Chief Minister of the State. After the days of Independence in 1947, the Government would come into action promptly and deal with the Enemy Agents firmly. Anybody indulging in subversive activities or intending to commit violence, called terrorist in modern terminology, were tried to be brought to book and put on trial unhesitatingly by the authorities that be. Quoting for instance, a case of Enemy agent/ terrorist of 1948 who was convicted and sentenced to imprisonment for 3 years against each offence and imposition of Rs 10,000/ as fine. This Saboteur, Ghulam Naqvi was originally a citizen of Kashmir, according to the Kashmir Government. But he had run away from Central jail Srinagar before completion of his term of sentence. He had abandoned the State citizenship voluntarily and took up that of Pakistan.

After a lapse of about five decades thereafter, Ghulam Naqvi was rewarded by Farooq Abdullah's Government to come back and settle down in Kashmir by waiving the punishment, unserved

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revolted against the terrorists and came out openly in favour of India and against the cruelties and atrocities of the terrorists. They did not spare even Parray's relations. He dared to stem the surging tide of terrorism and instilled spirit among the people to vote and fight the Assembly elections in the State in 1996 and ignore the threats hurled by terrorists. He organised a political Party "Awami League", with himself as its State President. In 1996, he also fought Assembly election and won from his home ConstituencySonawari. Kuka Parray had presented an advance copy of this book to the Author about three years back with the request to be present and speak at its release function in New Delhi to be performed by Home Minister L.K Advani. This book, however, has not been released by Home Minister so far, who perhaps did not want to displease Dr Farooq Abdullah. Kuka Parray has already authorized this Author to quote excerpts from his above unreleased book in the Author's instant book.

term of sentence. Without going here into its legal niceties, the case provides a strong clue as to how the Farooq Government functioned and treated Enemy Agents/terrorists! Instead of maintaining vigil and strictness against them and creating a deterrent example for the others, they were shown Government patronage. During the ongoing terrorism in the State, for instance, the Government approach and trend is shown by this order dated 28th February, 2000 It is reproduced in toto hereinunder:

"SRO 28- Whereas Ghulam Naqv, a Pakistan National (originally a citizen of the State of the Jammu and Kashmir) was arrested in October, 1948 in a case registered under section 3 of the Enemy Agents Ordinance, 2005, Section 3 of the Explosive Substances Act, and Section 120 (b) of the State Ranbir Penal Code; and whereas, the Special Judge, Srinagar conducted the trial and vide Judgement dated 15-3-2006 convicted the said Shri Ghulam Naqvi and sentenced him to undergo imprisonment for three years for each of the offences and a fine of Rs 10,000/-. The sentence was to run concurrently; and

Whereas, the said Shri Ghulam Naqvi has undergone imprisonment for only two years and 18 days when he escaped from the Central Jail, Srinagar, crossed the border, settled in Pakistan and took the citizenship of Pakistan; and whereas his brother and sister represented to the Government of Jammu and Kashmir seeking remission for the remaining period of imprisonment as well as of fine and also prayed for withdrawal of case pending against him and before the court so as to enable him to visit his homeland; and

Whereas, the said Shri Ghulam Naqvi (Pakistan National) also formally approached the State Government for remission of the sentence and withdrawal of the cause against him. Now, therefore, in exercise of the powers conferred by section 34 of the Constitution of Jammu and Kashmir read with section 401 of the Code of Criminal Procedure, Samvat 1989, the Government hereby remits the remaining sentence of eleven months and twelve days and fine of Rs 10,000/- imposed on Shri Ghulam Naqvi R/O House No 18, Street 48, F-8-4, Islamabad, Pakistan (Pak National) and the case under Section 224 of the Ranbir Panel Code against him is also, accordingly, withdrawn. By order of the Governor".[279]

Would the Government clarify whether this case has any connection with the State Resettlement Act? If so, whether the grant of Resettlement Permit would be advisable in the case of adjudicated convicts, offenders, conspirators and enemy agents? These matters are very serious and both, indicators and trend setters. Have such things any nexus with the slogans

[279] This SRO No. 28 of 2000 has appeared in the Jammu and Kashmir Government Gazette dated 28th February, 2000. This order is signed by the Governor G.C.Saxena.

of Greater Autonomy and behind curtain, Independence of Kashmir, pleaded and advocated by outgone Chief Minister Dr Farooq Abdullah? Has the functioning of Governor as representative of the President of India and the Authority of Central Government depreciated and eroded to this extent in the State of Jammu and Kashmir?

The Kashmir minority has right to ask it from the State and Central Government (of any hue and colour) have always played with their interests rendering them today homeless enmasse. What security can be in Kashmir for them in view of such political fits overtaking the authorities there with the connivance of the Central Government? In collusion with the Kashmir Government and to conceal and cover up their shortcomings and failures, is the Centre now going to make hostage in the Valley of Kashmir? Or they are to be rehabilitated there as free citizens of free India. The people of India need to ponder over all these things in right earnest.

The killing of Hindus in Kashmir was first started by KLF. It was followed by Hizbul Mujahideen and other terrorist groups. This all was done by Kashmiri Muslims who became vassals of Pakistan. They were joined later by the "mercenaries" or "guest terrorists" as they are called, who include not only Pakistani terrorists across the border but also from different Muslim countries, like Afghanistan, Sudan, Libnan, Saudi Arabia etc. Their route to enter into Kashmir is through Pakistan. The raiders invaded, looted and caused holocaust of the State of Jammu and Kashmir and its people in 1947 also after crossing the borders of Pakistan.

The main command of the terrorists has, for the long past now, passed into the hands of foreign terrorists, who are operating in the State freely and in sizable numbers. It is not the foreign terrorists alone now but foreign based terrorist organisations also which are operating in the State in a full fledged manner. The notorious among them are: Lashkar-e-Toiba, Jaish-e-Mohamad, Hikmatyar's (Afghanistan) Hizb-e-Islami.

The important feature of Kashmir terrorism now is, that the indigenous terrorists are either reduced in number or they work as subservient to and appendages of the foreign terrorists and foreign based outfits. After the terrorism escalated from Kashmir Valley to the Jammu region, the foreign terrorists have spread all over the State and dominate the terrorist related activities.

The harassment, torture, killings of Hindus and their exodus from Kashmir, was engineered by Pakistan and the plan was implemented by the Kashmiri terrorists. They had received the arms training under Pakistan Army Officers across the LoC. In the first phase

of terrorism in Kashmir, all the terrorists had undergone necessary training in many and different batches across the border. They subsequently, started training camps in the Valley itself, albeit the going of trainees across the Line of Control (LoC) and their returning home continued, to join their respective terrorist groups.

On January 20, 1990, a massive demonstration was held in Srinagar and a large Muslim procession taken out against India and favouring Islam. The tension had spread from the night of 19th January itself. Throughout blaring anti- India, anti Hindu and pro- Islam slogans and sermons from medium of public announcement system, frightening the non-Muslims all over the city and other areas. For the whole ensuing night, pro Islam and pro Pakistan as also anti India Cassettes were played on loud speakers, which were received from Pakistan and duplicated locally in large numbers and blared everywhere, in mosques and private houses. It created a havoc in the city and the suburbs.

The flag of Independence was to be hoisted by the terrorists next day. Jag Mohan was inducted as Governor of the State for second term and had taken his oath of office in Jammu. On the eve of his appointment as Governor, Chief Minister, Dr Farooq Abdullah feeling guilty and apprehending accountability for allegedly misuse funds etc, tendered his resignation. He wanted to cow down India and so under the circumstances his resignation was a green signal to National Conference workers and followers to join and strengthen the anti India Camp. At this crucial stage Dr Farooq Abdullah deliberately aggravated the crisis and later buzzed off to London where his wife is reported to have taken up a job. Since the Hindus were made mass target of terrorism in Kashmir, about one thousand of them, male, female were dastardly killed within some period. The entire atmosphere was surcharged with anti India feelings, having strong Islamic fundamentalist overtones.

> *"The innocent people of Kashmir fell prey to the rumours that the freedom was only "two miles away". A feeling was inculcated in the Kashmiris (Muslims) that India was Hindu country and Jehad enjoins to slaughter Indian Army...... The women and young girls of this place were preached to convince them that their chastity was open to molestation here and the only way to safeguard faith and religion by the people is to achieve Independence."*[280]

Before the terrorists, Kashmir was not a political Issue. It was in their eyes a question of Islamic brotherhood. Under the tenets of Jehad, they thought that they were justified to finish up Indian army and forge Islamic unity with Pakistan. Some of their slogans:

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[280] Syed Sikandar Shah Kashmiri, Jang Magar Jari Hai, (Urdu) P. 46.

"Throughout the length and breadth of the Valley in the current decade, the starting slogans were: Hum Kya Chhatay-Azadi (We want Independence) Azadi ka Matlab kya- La illa Illahullah (Independence means- Islamic rule), Pakistan say Rishta Kya Lailla Illahullah (What our relation is with Pakistan- Islamic brotherhood) and Indian Dogs go back."[281]

Not only that the conditions were created such as to cause mass exodus of Hindus from the Valley, but they were openly asked to vacate Kashmir through a press statement issued by a terrorist outfit Hizbul Mujahideen.

"For the sake of safety of life, thousands of Hindu families had to flee the Valley empty hands. Leading smooth and contented life in the Valley, the Hindus had to take refuge under the scorching heat of Jammu and in the pollution filled atmosphere of Delhi.......

The exodus of the minority community from Kashmir is not an ordinary event to be Judged from a normal angle. At the outbreak of militancy the sky rending slogans were resounding everywhere and made the nature of the gathering storm clear not only on the Hindu intellectuals but also on the Muslim intelligentsia. In the Hindu areas thereafter, the playing of recorded cassettes was not a mere " flirtation" with them. These raised the slogans like "Ay Marde Mussalman jag zara-Ab waqt-e-shahadat hay aaya, Allah Akbar" Ay! Strong Muslim awaken now. It is the time for sacrifice, God is Great. And Roos nay baazi haari hay- Hind peh larzah taari hay (Russia has lost the game- India is frightened by the same)

Ab Kashmir ki baari hay-Jago Jago subah huee (Now is the turn of Kashmir–Wake up, Wake up, dawn has appeared).

This was done under the instructions of Pakistani planners so that Hindu community was terrorised at the outset of this terrorist movement. It will leave no scope for Kashmiri Hindus to dare oppose it at any of its stage if the measures sounded were taken and adhered to."

Kuka Parray,[282] also known as Jamsheed Sherazi, was himself forced to join terrorist ranks at the statrt of terrorism which was supported by Pakistan. The Government of Pakistan trained, abetted and helped the Jehadi insurgents/terrorists. Kuka Parrey, being himself a prominent member of the terrorists, could not save and protect even himself and the members of his house hold as well as his other relations. They suffered cruelties, atrocities, extortions and other dastard

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[281] Syed Sikandar Shah Kashmiri, Jang Magar Jari Hai, (Urdu) PP.245-46.

[282] Former MLA and a terrorist turned pro-India, Kuka Parray President Awami League is fighting against terrorists alongwith his armed outfit.

and savage acts at the hands of other terrorists in routine and usual manner. How long could he continue with this sad state of affairs when he himself was not safe and secured in Kashmir from the jehadi insurgents and terrorists? These terrorists claimed their emergence and formation for forging global Muslim brotherhood in general, and Muslim unity with Pakistan in particular. This turned out to be a turning point in the life of Kuka Parray.

He, therefore, rose into revolt against terrorism and terrorist outfits and decided to fight against this vandalism and injustice. He revived loyalty to India and vowed to fight for India and help curb the Jehadi terrorism which was boosted up by Pakistan in Kashmir. It was according to him, against the tenents of Islam. He, therefore, organised counter terrorism and enlisted the support of many other like minded terrorists to relieve the oppressed people of awe and agony of the terrorists. Referring about the fate and flight of Kashmiri Hindus, the book on Kuka Parray says:

> *"What was his (Hindu's) desire? Without thinking or knowing whether he was pro India or not, he was cut and killed like a carrot and radish. Even though, Islam does not teach anywhere to commit excesses against non-muslims, yet the pace of killing Hindu intelligentsia was accelerated after dubbing them as "Indian Agent". In the training centres located in Pakistan occupied Kashmir, the brain washing of the terrorists under training was done and establishing of Islamic caliphate in Kashmir was being indoctrinated. As such, killing and eliminating of Hindus was essential so that "Islamic republic of Kashmir" could be set up in future and only people of Muslim community would settle down there. Obviously "Islamic Republic of Kashmir" would be for Muslims alone. The gunwielding products of these training camps, regarded every Hindu "Enemy of Islam" and putting him to death was taken as an achievement equivalent to reaching heaven. In this way, the massacre of Hindus was intensified. Kashmiri Muslims seeing this dreaded chain of massacres of Hindu brethren, could also do nothing in the matter, excepting offering mere consolation.In mid 1990, the terrorist organisation of Jamait-e-Islami, called Hizbul Mujahideen, came in the open to make their intentions clear: Through an English Daily, they granted 24 hour's time to the Pandits to leave the Kashmir Valley, which caused exodus of major minority community of Kashmir from their birth place."*[283]

Even after mass exodus of Kashmiri Hindus, a number of them chose to stay back in the Valley, relying for safety on the assurance of Muslim majority community. They lived as serfs

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[283] Syed Sikandar Shah Kashmiri, Jang Magar Jari Hai, (Urdu) PP. 246 - 47

though, yet suffered various types of harassment and underwent torture and occasional killings here and there. In a small hamlet called Sangrampura, the male members of the Hindu residents present in their homes were sent for, by the terrorists in 1997 and collected them at a short distance from their houses. They were then lined up and shot upon by the terrorists leaving 7 dead instantaneously and a few injured. A survived injured later , narrated an aweful tale hesitatingly.

The terrorists offered this Kashmiri pandit sacrifice to the American President, Bill Clinton when he arrived India on his official tour. Thereafter, another gruesome tragedy of Hindu Minority community was committed by the terrorists at Vandhama. A well equipped large group of terrorists, forcibly entered into the houses of the innocent and helpless Hindus in the evening and indiscriminately fired at the occupants of these houses in 1998, killing and injuring them. Then torched these houses and closed their exit doors, burning alive those who had escaped the bullets. In this tragic occurrence, 26 Kashmiri Pandits, male, female and children were dastardly killed. Only one small boy was able to run away and save himself. The book "Jhang Magar Jari Hay" (But the war is on) says:

> *"For non-provision of effective security by the State Government to the Pandits, terrific results appeared. At Vandahama, a remote place in Ganderbal Assembly Constituency of Chief Minister, Dr Farooq Abdullah, a bloody drama was enacted on the night of Republic Day in 1998, which is a living example of it. The height of it is that the State Government could not collect even the mortal remains of these victims of the terrorists. It was Awami League which later brought them from Vandahama to Jammu at their office Panjteerthi. The State Government did not relent here as well. Under the directions of higher authorities, the police broke open the locks of the Awami League office in the night and took away those mortal remains of the victims. It is only after the citizens expressed strong resentment that these mortal remains (Asthian) were returned. A migrant Pandit lady in Jammu was so much overwhelmed by emotions on this occasion that she tried to commit suicide. Later, the office bearers of Awami League carried these "Asthian" to Haridwar and immersed them in the River Ganges."*[284]

From Kashmir Valley, terrorism as a strategy, was first extended to district of Doda in Jammu region by the ISI. Some time after, this was followed in other slightly Muslim majority districts of Poonch and Rajouri. It spread, by and large, over the whole Hindu majority region of Jammu later. Some where having felt its presence

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[284] Syed Sikandar Shah Kashmiri, Jang Magar Jari Hai, (Urdu) P. 249;

very strongly and elsewhere having remained it confined to occasional, sudden and unexpected attacks on the innocent persons. District of Doda with a part of the Udhampur District, were made first targets in Jammu region, taking heavy toll of human life, mostly of Hindus. Consequently, migration of Hindus started from these areas to Jammu, which was discouraged by the Government and finally stopped, not without paying a heavy price by the victimised residents of these areas.

The Migrants of Doda district were discriminated against and paid no relief in cash or kind. Starved in Jammu, they were compelled by the Government to go back to their vulnerable Homes in the Doda District to die there without equipping them fully and adequately. They can give a tough fight as they are brave people provided they have wherewithal to fight. How sad and shameful it is that the Rulers living themselves amidst high security, fail to protect the innocent and helpless citizens. They are made to starve and die and die in insecurity. Long back and before advent of current terrorism in the valley of Kashmir, the Central Government had approved and given sanction to the establishment of Army Cantonment at Bhadarwah, an important town in Doda district.

Taking it as a welcome step, the people had even offered their land in the concerned area for this Cantonment. But the National Conference Government opposed the establishment of the Cantonment there, patently on communal and greater Autonomy considerations coupled with the intention of taking cudgels with the Central authority. The State Rulers have dared to defy the Centre so far, in the vital matter of Defence which the State Government should not have done. It is a sad commentary on the helplessness of the central authority that be. After start of terrorism in its crude form and on large scale in the Doda district, the harassed people demanded declaration of Doda district, as "Disturbed Area". The Doda district has otherwise also become very sensitive area. With the two demands of the victimised people for (1) establishment of Army Cantonment at Bhadarwah and (2) declaring Doda district as "Disturbed Area", a movement was launched in Jammu.

It was patronised by Central Bharatya Janata Party before it came into power. Many were arrested in this connection, so much so, Atal Behari Vajpayee and L.K.Advani (not in power then) also came to Jammu and courted arrest there, in support of these demands. A senior most living but retired Judge of Jammu and Kashmir High Court, Justice J.N.Bhat (not connected with BJP but a Migrant from Srinagar) also courted arrest in Jammu alongwith the above leaders, in sympathy with and support of the afflicted people of Doda district and their genuine demands.

After coming into power, the above central leaders of BJP were, however, the first to retreat from and oppose the stand for declaration of Doda district as "Disturbed Area", and establishment of Cantonment at Bhadarwah. They put it into limbo as if it was never a serious and approved proposal of the Central Government and demand of the people. The central leadership of BJP heading the Central Government are spineless people who have not been able to give a good and strong Government. They seem to be "B" team of the Congress, prepared to comprise everything for their individual Power.

A large number of innocent people, both Hindus and Muslims, are killed by the terrorists in a beastly manner in Doda and other districts. There have been several group massacres of the faultless and unfortunate people in these Districts. The Governments both, State and Central, have disheartened the people by their apathetic attitude and failure to provide efficient and clean administration. How heart rending it is that while two marriage parties were returning alongwith newly wedded two brides, all the male members were asked by the armed terrorists to alight from the Bus in Kishtwar area, and shot them dead all! They rendered within moments two young and innocent virgins to two Hindu widows.

Doda district is very important from strategic point of view. It serves as a bridge between Kashmir Valley and rest of Jammu region. In a way it is a lifeline for the Valley, connecting it with rest of the country. This district also adjoins Himachal Pradesh and has a mountainous path, leading to Ladakh, another important strategic area in the North, East of Kashmir. The Village Defence Committees (VDC) formed for self defence, in several areas of this big District, constitute a resident's resistance to the terrorists on small level in some areas purely for self defence. These Committees have within their limited resources, restricted terrorism in the Doda district to some extent. They could have been more effective and more helpful in containing terrorism there, if the Government had equipped them with full wherewithal and paid them attractive salaries on regular monthly basis.

The members of VDC Lopara (Dachhan), District Doda, killed some time back two dreaded Pakistani terrorists "carrying a reward of Rs 1.5 lacs on their head" disclosed IGP, Jammu Zone, in a press conference.[285]

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[285] Journey Lines, February 5, 2002. In the press conference IGP, Mr. P.L Gupta also stated that the slain terrorists, Abu Abdul Qazi, District Commander of LET and Abu Dujan, Dy Distt Commander (both residents of Pakistan) were "wanted in a number of cases, including the one of November 2000 at Patti Mahal Kishtwar, in which 5

The terrorists make use of deception, impersonation and play any type of fraud and cheating for scoring victory over other persons. They go for their atrocious physical liquidation even without their guilt and fault, at the most wishing to defend themselves when attacked: One dark and tragic night in village Kiyar bears it out. The terrorists entered the village on the fateful night wearing Indian army uniform. They almost laid a seige of the small village and called all the VDC members one by one and alongwith their defensive weapons, and collected them in the village temple for an urgent message. The bloody drama was being enacted by the terrorists in this far flung and forlorn village without knowledge of any other person in the world to remorse it; not even the mothers, sisters and other relations of the victims were aware of it.

The simplicity of the village and innocence of the residents was reflected in these youths assembled in the temple. The leader of the terrorists asked them to swear in the name of God that they were not helping the militants. All the VDC members numbering 8, unanimously took an oath to this effect. The terrorists thereafter told them to accompany to take tea in a nearby house. No sooner did the VDC members enter into the room, they were asked by the terrorists to stand with the wall in a line. One of the VDC member perceived at once the plan and told others that they were terrorists and not army men. He began to cry but was shot dead immediately along with other VDC members without any resistance.

The VDC members could not retaliate as their weapons were first taken over by the terrorists who did not spare even a lady of 80 years. She, however, survived after one month's treatment in Medical College, Jammu. The names of slain VDC members are Kunj Lal, Goverdhan, Shambhoo Nath, Jagdish Raj, Duni Chand(Ex-serviceman), Satish Kumar, Jagdish Raj II. The terrorists are bound by no Geneva Conventions, nor bother for Human Rights of the victims and other people. Such like bindings are imposed only on security forces and others.

Many other persons of Dachan area, (Tehsil Kishtwar) have also brutally been killed by the terrorists within some period only. The terrorists were threatening the residents of the area not to participate in the Panchayti elections, held over an year ago, and not to give land for construction of Panchayat Ghar.One Duni Chand, Ex- serviceman (not member of VDC) resident of village Sounder told public to take part in the elections and gave his land for construction of the Panchayati Ghar. Terrorists do not believe in the power of ballot and exercise of this right but want to enjoy the freedom of bullet to make others subservient to it. They are keen to snatch, therefore, the right of

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civilians were killed and also of March 2001", besides robbing Cashier of Dachhan Higher Secondary School.

franchise also from the citizens. What else they can tolerate then! The terrorists, therefore, nourished grouse against all these persons, not following their injunctions, including said Duni Chand. It was about noon on the fateful day, sitting at his shop and caressing with a small baby when the three terrorists appeared before him and shot him dead from close range.

A Junior Engineer Dewan Chand, resident of the same village Sounder, was brutally killed by the terrorists at Dang Dooru, near Sarbati, while he was proceeding to Kishtwar. The other two persons accompanying him, Baldev Ram, Ex- Army Captain and Mangat Ram of Sonder, tried their best to save him. But furious terrorists did not relent and killed the other two as well.

A piece of Government land located in the village Sounder Tehsil Kishtwar was utilised by the members of the village community for purposes of social functions. It was, therefore, entered into Government Revenue Record as "Fard Gah". But some of the communal and seperatist elements present in the State Administration in conspiracy with the local miscreants, tampered with the Revenue Records and converted the entry "Fardgah" into "Eidgah". Muslims of the area, thereafter, used it exclusively for saying prayers and prohibited entry of the local non-Muslims into this ground. It created tension and feud between the two communities who were otherwise living in peace in the village previously. The Revenue Record was, however, subsequently rectified by the authorities on the protest of aggrieved party and the entry "Fardgah" was restored.

It was again tampered later, causing fresh tension. Finally, the reasonable persons of the two communities made mutual compromise and settled the matter. This came into the notice of the terrorists who were not happy over the compromise. They avenged by killing the brother of the main mediator who settled the dispute. As a result Behari Lal and Ramesh Kumar of the same village lost their lives innocently at the hands of the terrorists. The terrorists also killed Raja Ram of village Chinjer and Saligram of village Lopara. The over all list of killings by the terrorists is very long but the brief mention made herein above is only an indicative of some aspects and nature of the terrorism prevailing in the State and role of the certain elements in the administration there about.

Hashim Qureshi, a protagonist of liberation of Kashmir, has thought over the Gun culture introduced by the terrorists in Jammu and Kashmir and its effects. He says:

"The gun has brought an end to the culture of co existence in Kashmir society. It has exacerbated extremism and sown the seeds of communalism. Secular polity has been devoured by the monster of communalism. The gun has consumed the generation of Kashmiri youth in streets and market places, in mountains and gorges, in streams and over glaciers. Thousands

of young women have been widowed and thousands of children have been rendered orphans. The gun has actually strengthened the criminal elements in society. Family feuds and personal vendetta are being settled through the use of gun. On the basis of gun, properties have been acquired forcibly and declared the act as legal and permissible. The weapon is being used for petty purposes and interests ...... under the fear of gun, matrimonial relations have been imposed upon unwilling partners. The gun has destroyed all such institutions as are essential infrastructure for the social and cultural development of a society like the schools, colleges, hospitals, bridges and other structures. The gun has closed the path of reason and found a short cut to the resolution of political differences by liquidating the political opponents."[286]

The local police was rendered inactive and their initiative damned by Chief Minister, Dr Farooq Abdullah's ambiguous policy towards the terrorism from the very outset. Many of the policemen got killed haplessly in this administrative indecision and confusion. The result was that the police became helpless before the terrorists and abdicated their duties to protect the person and property of the people and to look after the position of law and order:

"The army does not trust the police which is accused of pro-militant tilt. I know by enquiring that police are under orders of the militants not to interfere in people's affairs and not to help the authorities in any way."[287]

The stand of terrorist outfit JKLF suited Dr Farooq Abdullah's "Independent Kashmir" via " Autonomy". This was the first group to jump for the armed insurgency in Kashmir in 1987, though the immediate provocation for it was Dr Farooq Abdullah's Government itself. The National Conference is said to have indulged in massive rigging in 1987 Assembly elections and many of the Muslim Young men were frustrated who were either themselves candidates in the election or polling agents of the Muslim United Front (MUF) candidates. Many of them were originally connected with National Conference, some were given a severe thrashing also by the ruling party and got many of them imprisoned. Thereafter, they went across the border received arms training, returned and raised slogan of "Independent Kashmir" and plunged into armed insurgency.

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[286] Hashim Qureshi, Kashmir Freedom in which shape? P. 14. Qureshi is a former leader of JKLF and now chairman JK Democratic Party (JKDP).

[287] Dr Zafarul- Islam Khan, Wounded Valley PP. 13-14. The position of the local Police has changed and has improved much time past and have become comparatively active.

They acted as Islamic fanatics, if not fundamentalists and presented an ugly face of terrorism in Kashmir, started killing of innocent Hindus with the support of Pakistan. The strength, power and influence of JKLF, however, decreased as a terrorist group, by and by, for the Pakistan Government created, helped and Patronised a large number of terrorist outfits. These groups raised the slogan of Pakistan. "With Nizam-e-Mustafa and not "Azadi":

"JKLF position deteriorated over the years because Pakistan decreased its Patronage since 1991. Political observers in India have described it as a modified version of the National Conference. Abdul Qayum Khan, Prime Minister of Azad Kashmir, has reportedly called it a 'terrorist organisation'.

JKLF, though secular, has used Islamic Symbolism to win the deeply religious Kashmiris. The invention of the HAJY[288] *(Mecca returned Pilgrim) acronym is also part of this Islamic symbolism. The JKLF military uniform bears the Islamic motto of 'Allah Akbar' (God the Greatest) in Arabic. Its preachers...... have taken to pulpits of mosques, quoting instances from early Islamic history, to justify its stand for a 'separate' State, an idea not cherished by the believers in one ummah. The JKLF even talked of an 'Islamic Republic of Kashmir' and 'Nizam-e-Mustafa' (system of the prophet), the same slogan raised by Gen Ziaul Haq in Pakistan in order to gain legitimacy in the eyes of the people."*[289]

This coupled with other factors like their "Genocide", resulted in driving the Hindus forcibly out from the Valley of Kashmir enmasse. The Hindus, no doubt, attached much value to their respect and honour than to their property and other interests in Kashmir. To leave the home and the property for security and safety of life and honour, is not a small thing to be ignored or taken lightly. It simply denotes the degree of excesses committed against the members of exiled community and the consequent quantum of compulsion which caused their enmass exodus from their land of their birth and ancestors. It was to the merriment of many and remorse to none. JKLF, however, came to realise, albeit very late, the absence of Kashmiri Hindus from the Valley and their position in the Kashmir society:

JKLF is not the same terrorist force in Kashmir today as it once was at the outbreak of terrorism. Pakistan let it down

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[288] It was initially "HAJI" as the "I" of this word denoted the first letter of the name of Ishfaq Majid who got killed in this adventurism . He was one of the important founders of JKLF in Kashmir Valley as a first Kashmiri terrorist group: The letter 'Y' denoting the name of Yaseen Malik has been later substituted by his supporters for the letter I of of HAJI, making it HAJY.

[289] Dr. Zafarul Islam Khan, Wounded Valley, P. 49.

after some time, so power and pelf is no longer in full at the back of JKLF as previously used to be:

> *"As long as it (Liberation Front) worked with ISI and other organisations of Pakistan, its members continued to receive training in camps, arms, ammunition funds, and publicity to the extent that in the context of Kashmir, Liberation front became almost omnipresent. But when secret agencies took Hizbul- Mujahideen and some more organisations under its wings and strengthened them, Liberation Front found itself ditched. Through the instrumentality of Hizbul-Mujahideen, many capable and patriotic youth of liberation front were liquidated in Kashmir."*[290]

Pakistan is playing a dangerous game in Kashmir through this terrorism, abetted and supported by her. She used JKLF for her own interests and then betrayed it and backed out of its goal of Azadi (Independent Kashmir). Barring the legal restrictions that the JKLF entail because of its unlawful activities in Kashmir, the people belonging to JKLF otherwise are as free as any other citizen of India is. They all enjoy freedom. But Pakistan want to snatch their freedom alongwith other segments of the population of Kashmir. She is keen to subjugate them to a military dictatorship of Pakistan. Is it fight to achieve "Aazadi" or to lose "Azadi"?

The various terrorist groups, therefore, could not cultivate unanimity on political goal and purpose. They were as much at variance politically, as they differed ideologically. The JKLF was apparently in search of separate identity for Jammu and Kashmir as an independent entity whereas Hizbul Mujahideen, a terrorist outfit of Jamait-e-Islam, stood for merger of Kashmir with Pakistan. Hurriyat Conference, an above ground conglomeration of anti Indian parties, is also not a cohesive political amalgamation. It is marked with sharp political dissension on the basic issues involved. As such, internecine gang rivalry of some terrorist groups ensued and one tried to overtake the other. A time came when they were scared of each other and were on guard more for the apprehended possible attack by the rival group than from the security forces.

Kuka Parray's close associate and one time personal guard, belonging to his Militant outfit Ikhwanul Musalmeen, Manzoor Ahamed Mir of Asham, (Code name Shakeel Khan) went to Srinagar to appear in his Urdu paper for Masters degree in 1993. He did not return in the evening, nor his fate could be known despite the frantic efforts by his outfit to trace him out. Only 40 days later, Ikhwanul Musilimean came to know that while returning from Srinagar, he was kidnapped, assassinated and buried. His bullet riddled body was

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[290] Hashim Qureshi, Kashmir Freedom in which shape? PP 2-3.

exhumed. Ikhwanul Musalmeen leaders shocked to see the tortured and damaged body of Manzoor Ahamed and this dastard act was reportedly committed by Hizbul Mujahideen.

Kuka Parray was then provincial commander of Ikhwanul Muslimeen, a terrorist outfit. When the corpse of Manzoor Ahamed was being carried to his home village Asham, a big *"procession of 40 thousand people raised slogans against Hizbul Mujahideen, Jamait-e-Islami and Pakistan. The uncontrolled procession torched the houses of many Jamait-e-Islami members in the area."*[291]

This instance was cited only to show that political and ideological confrontation between Hizbul- Mujahideen on the one hand and some other terrorist outfits like Ikhwanul Muslimeen on the other, took a serious turn. It has continued to be a normal feature of the terrorist activities in the State. Some of the terrorist groups were, therefore, amenable to double pronged attacks: a) terrorist to terrorist attacks b) terrorist versus security forces and vice versa. The terrorists on the whole lost balance of mind with the gun hanging on their shoulders. They harassed the members of the public in many ways: Unwilling and compelled marriages, rapes, extortions etc. Two instances only are cited below to indicate the excesses done to the innocent public:

Kuka Parray, then a District Commander of Ikhwanul- Musalmeen, was directed to leave his residence immediately and reach Garorah alongwith his guards. It was raining and dark as night had fallen. When the party reached Ajas, they heard screams from a house with closed doors, only a beam of light coming out. Kuka Parray and his party paused, then entered the house:

> *"On opening the door, a heart rending scene was before their eyes. A weak and aged person was tied with ropes to the beam of a ceiling and his feet on a Stool. He was weeping and his daughter all naked, was at the distance of a feet from him……Before asking anything Kuka Parray put off his wet "Pheran"*[292] *and threw it on the girl. Her screams turned to cries and implored, "How long would I be tormented? For the sake of God, release my father and me now"* [293]

Kuka Parray thereupon, untied the ropes of the girl's father and set him free and wanted to know the facts from him. He also replied in the same vein. "For God's sake, take mercy on us", the father said. On convincing the girls father that he had to reach somewhere else and heard screams of the girl and dropped inside to help him. Father then told

[291] Syed Sikandar Shah Kashmiri, Jang Maghar Jari hay. P 81.

[292] A Kashmiri domestic type of full stitched long robe, generally used in cold but not in offices.

[293] Syed Sikandar Shah Kashmiri, Jang Magar Jari hay P 67.

him the whole story. On his refusal to marry his daughter forcibly to one of the youths, they threatened him and came in the evening and raped her before his eyes. Kuka Parray apprised the Divisional Commander and other Commanders of Hizbul Mujahideen and leaders of Jamait-e-Islami in the area, to rectify the high-handedness and injustice perpetrated on them. They regretted the occurrence but added, *"The boys of our Jamait do not commit such disgraceful acts,"*[294] they said.

Abdul Rashid of Hajan, Electronic Mechanic, was the sole earning hand of his family. He was running a shop for effecting repairs to the electronic goods and lending on rent VCP and film cassettes. Abdul Khaliq Haneef, leader of Jamait-e-Islami, Hajan, had reportedly summoned Abdul Rashid to his place for doing un-Islamic act of hiring out VCP. He felt nervous and went to Haneef's residence as Jamait people would order for shooting a person if deemed guilty by them.

> *"Abdul Rashid, some how, reached the house of Abdul Khaliq Haneef...... He began to weep and begged of him in the name of God to save his life. "You know that in Islam things like VCP are prohibited. For violation of Islamic laws, imposition of death penalty on you is not improper", said Haneef and after a pause added, "Well, you deposit VCP and films with me and contribute about Rs 25,000/- to the Jihad fund of Hizbul Mujahideen , then you may be saved,"stated Haneef "I can deposit VCP and Cassettes but it would take me one or two days to arrange for the money."*[295] Abdul Rashid submitted.
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> On the same day at Noon, *"Abdul Rasheed collected from his shop 25 Video films and VCP which he handed over to Abdul Khaliq Haneef. After two days strenuous struggle, he collected Rs 21,000 and paid it to Abdul Khaliq Haneef."*[296]
>
> Abdul Rashid entreated:
>
> *"Haneef Sahib! I have sold my land and paid you this amount. Would my life be safe now?"*
>
> *"Amount is lesser. However I would talk to them (Hizbul Mujahideen) and make them agree. You go, but mind it that in future, you would not do it. Abdul Khaliq exhorted him."*[297]

So far so good. But the climax of the story is yet to reach. The author of "Jang Magar Jari hai" (But the War is going on) has something further to say. Abdul Rashid abandoned this job. About a

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[294] Syed Sikandar Shah Kashmiri, Jang Magar Jari hay P. 70.
[295] Ibid 72.
[296] Ibid 72.
[297] Ibid 73.

month after, however, Abdul Khaliq Haneef sent a message to Abdul Rashid to come to his house with repairing tools. He went there:

"Abdul Khaliq Haneef told him that his VCP had gone out of order, set that right. When VCP was brought for repairing, Abdul Rashid was astonished to find it was his own VCP which Abdul Khaliq Haneef had confiscated from him on the ground of declaring it 'un-Islamic thing'. This was the business in fact. Abdul Rashid, however, could not say anything as he knew to utter anything meant punishment of death and he was not prepared to die."[298]

Many terrorist outfits have double standard and double faces. They invariably adopt double postures. Such nefarious and other high-handed and unlawful acts are committed by them, freely and frequently. Ikhwanul Musalmeen also used to raid and seize un-Islamic things like VCP. On the basis of admission made by Kuka Parray himself, once Provincial Cammander of Ikhwanul Musalmeen, an interesting disclosure is quoted here under.

"Kuka Parray himself admits that the commanders of Ikhwanul Muslameen have conducted raids at many places and seized un-Islamic things like VCP. But these striven for establishing Nizam-e-Mistufa in Jammu and Kashmir, would quarrel, after reaching their hideouts, whether to witness the picture of Madhuri Dixit or of Rekha."[299]

On the excuse of Islamic tenets, the terrorist groups had ordered closure of all Cinema Halls, prohibited sale – purchase, hire and playing of picture Cassettes, shuttering down of liquor shops etc. It was done for converting Kashmir into a full fledge Islamic State, governed by Nizam-e-Mustafa (System of the Prophet). These dictates were followed and complied with by the general public out of fear but exploited by the terrorists, who obviously did not think it applicable to them. It was, however, implicit warning to the non-Muslims that they had no right or place to live in Kashmir.

The height of political intolerance by the terrorists will be gauged by this simple fact. Incharge principal of Hajan Higher Secondary School, Ghulam Nabi Basu's fault was that he expressed an opinion about the programme of Jammait-e-Islami. He added,

"Jamait-e-Islami has committed greatest mistake in the history by taking up gun". On expressing this opinion, Basu was kidnapped

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[298] Syed Sikandar Shah Kashmiri, Jang Magar Jari Hay P.73 .

[299] Ibid P. 74.

from the school. *"Next day, his bullet riddled dead body was found at Naidkhai"* [300]

Head Master of Hajan school, Ghulam Nabi Parray alias Shalla, was giving lessons to the students in a classroom. Two veiled terrorists appeared and asked Shalla to accompany them which he did. But he refused to go out with them beyond the precincts of the School. Without telling his fault, one of them *"fired on him with pistol. Before the shooter could run away, dying Shalla snatched his pistol and killed him there. On unveiling, he was identified as nephew of Ghulam Mohamad Khan of Asham, Divisional Commander, Hizbul Mujahideen."* [301]



People's elected representative (MLA), Abdul Aziz Mir's long funeral procession after he was shot dead by the terrorists near Srinagar (Kashmir). It was a sort of procession by public against the Pakistan abetted terrorism in Kashmir.

[300] Syed Sikandar Shah Kashmir, Jang Magar Jari Hay, P. 76.
[301] Ibid.

CHAPTER XIV

FOREIGN HAND IN TERRORISM AND RELATED ISSUES

JKLF was the second terrorist outfit of its nature with a public posture in Kashmir. Its birth took place in the regime of Dr Farooq Abdullah in 1987 when it was not difficult to finish it up. The Chief Minister, however, remained indifferent and allowed its sponsors, supported by Pakistan, to organise it and give a fillip to it, so as to be threat to Government of India. Obsessed with the idea of "Independence" as Dr. Farooq Abdullah himself was, he felt as such, reluctant to crush it and reportedly not allowed police to nip this evil in the bud. Its predecessor terrorist outfit- "Alfatah", fully sponsored and supported by Pakistan, operated in Kashmir Valley in or around mid sixties.

It was a strong terrorist group with big ammunition dump at village Barsoo, Awantipora, not very far from Srinagar. But the State Government leadership and the administration working under it, did not allow it to assert and expand. Police seized the ammunition, captured its secret headquarter and hide out, and arrested many of its activists. The outfit was curbed before it could prove dangerous and crushed it finally. It could not, therefore, make any headway in Kashmir as would have been apprehended. This acted as a secret militant wing of Sheikh Abdullah's patronised Plebiscite front during the years of his political wilderness.

The activists of "Alfatah" ultimately joined resuscitated National Conference via Plebiscite Front when Sheikh Mohamad Abdullah got installed to power again in February 25, 1975. Some of them were appointed in the civil wing of the Government on important administrative posts and some in the police department. A marked difference was, therefore, discernible in the approach and attitude of the State Governments in saddle from 9th August 1953 to 25th February, 1975 and the Governments thereafter. The earlier Governments would not mind fundamental opposition and anti India postures and politics. It would help them to maintain their monopoly. But unlike the subsequent rulers, they were cautious and vigilant to see that the Indian Power structure and control in Kashmir, was not endangered, nor sought its collapse.

It was their own collapse and liquidation, the rulers then thought and realised, if that eventuality ensued, their survival would imperil. The Government accordingly, humbled "Alfatah" through its police

agency and without aid of Para-military forces. The working of the State Governments since 25th February 1975 till date, have been some what with a different angle. Their functioning needs to be probed in this context.

A negligible number of terrorists could be dealt with in the initial stages effectively and the problem solved provided the Government had a will to do that which apparently was not there and the number started multiplying. They seemingly enjoyed clemency of Chief Minister, Dr. Farooq Abdullah and proceeded ahead unhindered and unpunished. From about half a dozen terrorists or so forming JKLF Kashmir in 1987, rose to about 100 and within some months, it swelled to 300, when Dr Farooq Abdullah tendered resignation from Chief Ministership on January 18, 1990.

"In mid 1989, when the militants made their presence felt for the first time, Dr Farooq Abdullah and his aides placed the numbers of the armed secessionists at '100- odd'. A few weeks before he quit office, on 19 January 1990, in the wake of the reintroduction of Jagmohan as State Governor, the number was stated to have risen to 300 or so." [302]

With the appointment of Jagmohan as Governor of the State on second term, Chief Minister, Farooq was disappointed and perhaps convinced also, that his double game would not work. Jagmohan was aware and had grasp of Farooq Abdullah's three "M's", manipulation, motive and method, of his working. Apprehending, exposure of his subtle conduct and purpose and likely confrontation between him and Jagmohan on national interests in Kashmir, dejected Farooq. He found no way out but to resign. He was politically more scared of Jagmohan than interested in people of Kashmir, so tried to escape from his reach after he resigned.

There was already change over in the Central Government and suspecting apparently some probe, Farooq went far away to London. He stayed there as his wife is said to be still a British citizen and reportedly doing a Job there. However, the resignation of Farooq Abdullah from Chief Minestership of the State was green signal to the people of National Conference, to save themselves by even taking to arms, joining the secessionists and helping the terrorists. The situation in Kashmir, therefore, became exacerbated. A large number of young men were allured to cross over the border and received training in arms. They were financed and well equipped by Pakistan and sent back to Kashmir to join the ranks of terrorists, working with different outfits.

Two things distinctly emerged: Firstly, a large number of Kashmiri youths were induced, instigated and allured to take

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[302] Zafarul Islam Khan, op.cit PP. 40-41.

up to terrorism; Secondly, a big number of terrorist outfits were organised and floated by Pakistan. Here Dr Farooq's calculation went wrong. He had an idea that only JKLF outfit would be supported and financed by Pakistan against India, which would be closer to him and act as underground terrorist group of National Conference, to support his Independent Kashmir via Greater Autonomy. But he was utterly dismayed soon, when Pakistan floated a number of terrorist groups supporting directly Pakistan and not Independent Kashmir. The new dimensions of the situation, therefore, created problem for Dr Farooq Abdullah, and the situation went out of his control totally, leaving the staunch National Conference workers high and dry.

> *"Pakistan is said to have deliberately floated many organisations directly in its favour in order to wrest the initiative from the JKLF in the early years. The existence of numerous organisations also helps Pakistan maintain control over the militant groups in case of 'betrayal' by them."*[303]

A large number of terrorists infiltrated, from time to time, into Kashmir with the financial and other support of Pakistan, Saudi Arabia and various other Muslim countries. They came some time after terrorism had started in Kashmir. Withdrawal of Russia from Afghanistan, left a huge number of the terrorists disengaged there. It appears some one directed them to fight for allegedly "victimised" Muslims in Kashmir. They came to "liberate" the Muslims of Kashmir which meant to seek secession of Kashmir from India. But they should have liberated the Muslims of so called "Azad Kashmir", Gilgit area and other areas of the State from the yoke of undemocratic and despotic Pakistan. These areas are illegally occupied by her as a result of her aggression on the State in 1947.

Foreign terrorists from none of the Muslim countries in the world, went to liberate the Pakistan occupied area of the State of Jammu and Kashmir which is so far neglected and backward and perhaps victimised too. This is purely a Muslim communal terrorist movement, against the non-Muslims. It fans religious fanaticism, divorced from political ideologies, in which Pakistan itself is involved as a part and parcel of this aggressive violent movement.

Pakistan has, not only exemption for suppressing her people and also of the occupied Kashmir but has also active hand in this whole trauma. Because of this religious fundamentalism, the Hindu/ Sikh minority in Afghanistan was also uprooted and exiled. The lot left behind there has been harassed and live in deplorable and uncertain

303 Zafarul Islam Khan, op.cit PP. 40-41.

conditions. The still prevailing hostile conditions against the hounded out Kashmir Hindus, are the reasons that the displaced Hindu minority has not been able to go back to the Valley. It has become a timeless affair which assumes now a dangerous content and contour, bedevilling the solution to their resettlement problem in the Valley of Kashmir.

> *"The foreign terrorists relegated the local terrorists to lower and inferior positions. The foreigners are showing them bossism and "have taken command of most of the militant outfits operating in Jammu and Kashmir in a bid to sustain the sagging militancy".* [304]

The foreign mercenaries / terrorists joining the terrorism in the State of Jammu and Kashmir from time to time, belonged to various Muslim countries of the world. These countries include: Afghanistan, Algeria, Bahrain, Bangladesh, Bosnia, Egypt, Iran, Kazakhistan, Lebanon, Libya, Nigeria, Pakistan including occupied Kashmir, Somali, Saudi Arabia, Sudan, Syria, Turkey, UAE, Uzbekistan, and Yemen. The entry and presence of these terrorists in the State of Jammu and Kashmir at any time and for whatever duration, is an interference into the internal affairs of India by them and by their respective countries. No Islamic country has taken any penal action against such of their nationals and citizens so far. They are supporting terrorism, which is antithesis of free thought and expression and other civil liberties, as also democracy itself. They help subversion of Rule of law and contribute to the derailment of legal system, creating confusion and anarchy. Their crime is, therefore, more heinous and serious; it is a crime against humanity and accordingly entails the severe and high quantum of punishment. This terrorism works against the concept of "States" and erodes the established principles and notions of International law.

India is facing this Muslim terrorism right from 1947 when the demand for achievement of Pakistan was implemented by the British Government. She is withstanding it and continuously battling against its outcome and repercussions in Kashmir and elsewhere. The terrorism has assumed dangerous trend and wide proportions. It has become seriously a global menace. The tragic and lamentable episode of World Trade Centre in New York on September 11, 2000, cannot be taken as an isolated occurrence, concerning America only. It also conveyed threat to the whole world and USA has genuinely taken a firm stand against it and has enlisted the support and sympathy of the free world and the free thinkers.

This world looks towards USA today, with hope and succour to fight out and eradicate this growing menace to the humanity and the human civilisation. England and other European

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[304] The Pioneer, 2nd September,1993.

countries have contributed much to the well being of the human society in the modern world, in various spheres. They are also expected, as they do, help relieve the threatened peoples and above all the humanity of this new growing malaise before it takes epidemic form, in co-operation with other like minded countries and the peoples in the world. The UNO, as an over all World Body and custodian, has the most vital role to play in the world today in this regard.

According to a report, in October 1991, as many as 150[305] terrorist groups were operating in the Valley of Kashmir. The State Government gave out the number of terrorist outfits at 186 and the total number of terrorists present in mid 1992 in the order of 60,000. These figures seem to be on the higher side. By the ending month in 1991, the number of terrorist groups active in the Valley was fixed by Government of India at 135[306] and the number of trained terrorists at 10,000.[307] By an estimate in 1993 also, the number of terrorists active in Kashmir was 10,000.[308] According to a Press report, the Terrorist groups active in Kashmir have been very large. No where in the World such large number of terrorist outfits function in a single country or Areas as in Jammu and Kashmir.

> *"At about the same time News, a Pakistani newspaper estimated that a total of 152 militant outfits have emerged in Jammu and Kashmir during the first five years of militancy"*[309]

The numbers of both, the terrorists and terrorist outfits, are fluctuating and not static, nor it can be. With every year that passes, the figures change as the case was in earlier years of terrorism in Kashmir Valley. It has escalated to many parts of the Jammu region as well, including districts of Doda, Udhampur, Rajouri and Poonch. The terrorists are, therefore, operating for many years now, in various areas of Jammu region also with increase or decrease in their numbers and their outfits. Equally true is that the foreign based outfits and foreign terrorists have been operating in the State in substantial numbers. For all these years, they have taken a very high toll of the civilians as well as of the Security forces. The terrorists also have been eliminated in large numbers during encounters and other fights and attacks.

> *"Today the militancy in Kashmir has been taken over by foreigners – the so called 'Mehmans'- Afghans, Pathans, tribals from NWFP and 'Goonda' unemployed element from Punjab. The local people are very few because most of them are realising that Pakistan is only*

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[305] This figure is given as per the report published in the Frontline, 12 October, 1991.
[306] Central Home Ministry statement in Parliament on 4th December, 1991
[307] Ibid.
[308] This figure is quoted as per the London Economist, 18th October, 1993
[309] Wounded Valley, op. Cit, P. 140.

using them to create terror for its own aims. Those local misguided youth who are still in militant ranks are basically seeking power of gun and easy money. That is the reason why we hear of so many murders and rapes by militants. The ISI in Pakistan has also deliberately sidelined the local Kashmiri militants because they know that most of the locals are realising that they have become pawns in Pakistani game plan. The foreign militants have no sympathy for the Kashmiri or for Kashmir. They are only for money, loot, rape, extortion and having a good time at our cost."[310]

One of the fanatic foreign Muslim terrorist group is Harkatul- Jehadi Islami. In 1997 and onwards it started imparting training to Jehadis. With the help of Pakistan, it went to Afghanistan also and took part in Jehad there. The so called "Azad Kashmir" is also supporting them. After Russia withdrew from Afghanistan, the first contingent of this Jehadi outfit, entered the State of Jammu and Kashmir under the command of Maulana Muzaffar Hussain Ahamed, Amir-i-Aala. It created local influence in Kashmir for Islamisation of the State. The slogan of this outfit was, "Kashmir banayga Darul Islam". Its followers were, therefore, keen to convert Kashmir into a full fledged Islamic State.

Commander Muzaffar Hussain Ahamed started his missionary work immediately in Kashmir Valley alongwith his group. He set up training camps in Kashmir with the connivance of some elements in the State Administration. There was either a total failure of the Intelligence Services or grave lapse or wilful default on the part of Central and State Governments, allowing it foothold in the Valley.

This group of Pakistan based fundamentalist ultras, came from Pakistan to Kashmir. It transpired as if it had to complete and finish the incomplete and unfinished task of 1947, concerning the genocide of remaining Hindus and Sikhs in the State.

"At the outset, they established training centres in the Jungles of Kashmir which is a solitary instance of this nature in the history of Kashmir......Not only Kashmiri, but hundreds of youths from different States of India received training there" [311]

These Jehadi's handled the work of Islamisation also ably and became known shortly as "Allah Wallay".[312] Chief Minister, Dr Farooq Abdullah had cordial relations with "Allah Walley" and openly associated with them. Much before eruption of terrorism in Kashmir in the present form during Dr Farooq's Government in 1989, he

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310 Kashmir- A tragedy beyond words.P.7.

311 Harkat-ul-Jihadi Islami Ka Taaruf, PP.6,7, published (in urdu) from Muzaffarabad, (Azad Kashmir, Pakistan occupied)

312 Harkat-ul-Jihadi Islami ka Taruf, P. 8.

played host to the three day Convention of "Allah Wallay", held at Idd Gah, Srinagar in 1987.[313]

It is the primary duty of both the Governments, State and Central to probe as to how long these Centres functioned in the Jungles of Kashmir and how the youths were receiving training in these centres from Kashmir and from other States of India. It was only two years after that the Army came to know about these terrorist training centres and captured the same in an operation conducted by them against these terrorists and their training centres. The army operations were, conducted with the aid of Air force. After this, a group of 33 terrorists of Harkatul Jehad, claiming to be Jehadis, embarked upon their Jehadi activities under the Central Chief Commander, Nasser Ullah Mansoor Langdiyal. In several encounters, many of the Jehadis died and were also captured. Similarly, some army casualties also took place. One Col. Dev Raj was captured by them. In November, 1994, Harkatul-Jehadi Islami fought in Ladakh-Kargil Sector and lost 28 terrorists as against the casualty inflicted on the army, according to this outfit. They captured Lt Col. Bhupinder Singh of Border Roads Organisation in January 1995, a non assault force. Harkat-ul-Ansar, however, killed this Army officer later,[314] as the Harkat's arrested Commander was not released by the army. This raises the question of "Human Rights" of the Army personnel which have apparently been denied to them in Kashmir by the terrorists in particular.

Harkat-ul-Ansar and other foreign based terrorist outfits were bent upon to spread Islam and establish Islamic Government in Kashmir at any cost, besides wiping out all the traces of India and non-Muslims in Kashmir. Harkat-ul-Ansar is a large, powerful and dreaded outfit of Pakistan, having accordingly a large number of foreign terrorists on its rolls. It was in fact, Harkat-ul-Mujahideen which started working in early 1980 in the central Punjab of Pakistan. Its headquarter was located in the Raiwand area of Punjab. About merger of Harkat-ul-Jihadi Islami and Harkat-ul-Mujahideen, a new terrorist outfit, Harkat-ul-Ansar was formed in 1993. On October 1, 1997, however, the US secretary for State Ms.Madlin Albright presented a list of 30 International terrorist outfits to the American Congress to enact law against these terrorist organisations of the world. The name of Harkat-ul-Ansar figured in the American Notification issued in this connection in 1997. The Harkat-ul-Ansar, therefore, changed its name and

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313 See also Author's book, "Crisis in Kashmir".

314 Harkat-ul-Mujahideen,P.8, Research Foundation, New-Delhi. However, according to Harkat-ul-Jehadi Islami, Bhupinder Singh was Major General and claim that his body was chopped after one week and thrown before the army. Harkat-ul-Jehadi Islami Ka Tauraf P.8.

revived old name of Harkat-ul-Mujahideen, in order to escape the consequences of American Notification and to defeat the American Law.

Harkat-ul-Mujahideen alias Harkat-ul-Ansar is an organisation of Suni Muslims. It believes that sofi traditions present in other religions and the importance of Guru – Disciple relationship in Hindu religion do not leave good impact on Islam. The workers of Harkat-ul- Mujahideen are generally taken from Muslim religious Missionaries. They have conservative views about women and do not appreciate Parliamentary Democracy.

"Like the organisations of Taliban and Dawat-ul-Irshad, this outfit believes that the proper place for women is four walls of the home and do not concede equal rights to women......It rejects Parliamentary Democracy and takes it as bad western influence on the Islamic society."[315]

Prominent personalities of Pakistan connected with Muslim religious missionary organisations, are closely aligned with Harkat-ul-Mujahideen. Amongst them are included the Ex. President of Pakistan, Mohamad Rafique Trar and Ex. Lt. General Javed Nasir. He was in the earlier period of Nawaz Sharief's regime, Director General of Pakistan's Inter Services Intelligence(ISI). The Clinton Administration of America had cited the name of Pakistan also in the list of the countries encouraging terrorism in the world. To get the name of Pakistan deleted from this list, Pakistan followed the American condition of removing from service Lt Gen Nasir with some other officers of ISI. Initially a voluntary force created by Harkat-ul- Mujahideen was sent to fight in Afghanistan.

"For this purpose, recruitment started from Pakistan and Pakistan occupied Kashmir and about five thousand persons were enlisted. From other Muslim countries thereafter, like Algeria, Egypt, Tunesia, Jordan, Saudi Arabia (here Assama bin Ladin, played an important role), Bangladesh, Mayanmmar (Burma) and Philippines about six thousand volunteers were recruited. CIA was in know of these recruitments but kept its eyes shut as the activities to defeat the Soviet forces in Afghanistan, were in American interest."[316]

Recruitments were made from Jammu and Kashmir also.Pakistan Government has never restrained Jammait-e-Islami, Harkat and other organisations from making recruitments for indulging in Jehad. These organisations were permitted to collect Jehad fund anywhere in the country, according to the News (Pakistan). Harkat-ul-Ansar has a constituent group Al-Faran which was created by ISI in

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[315] Research Foundation, New Delhi, Harkatul Mujahideen alias Harkatul Ansar, P.2.
[316] Ibid P.3 .

1993 to get the release of their special people. It has a large number of foreign terrorists. They hail mostly from Turkey, Saudi Arabia, Afghanistan and Pakistan. They hijacked the Indian Airlines plane which took off from Kathmandu for New Delhi, but was taken to Kandhar. It was done to secure the release of Mohamad Masood Azhar, a Pakistani national operating in Kashmir, who was arrested and detained . He and others were important men of ISI.

> *"Harkat-ul-Ansar and Al Faran, both have confessed that Al Faran was created to seek the release of top Harkat-ul-Ansar leaders in India. I am reminded of my telephonic talk with a friend in Muzaffarabad. He said that Azhar Masood , Sajjad Afghani and Abu Jindal are very special people of ISI who brought success to the plans and religious organisations and ISI itself according to which foreign militants could entrench themselves in Kashmir."*[317]

Mohamad Masood Azhar was let off alongwith some other terrorists in lieu of release of the passengers of hijacked Indian Airlines plane on flight from Kathmandu. Masood Azhar, Secretary General of the outfit and a former Professor of Islamic University of Karachi, disclosed that soldiers of Islam from 12 countries had "come to liberate Kashmir".[318] It did not behave the Government of India to have sent to Kabul its Foreign Minister accompanying Masood and other terrorists to hand them over there in exchange of passengers. The prestige of Indian Nation was not so low as to warrant the Indian Foreign Minister" escorting" the criminal terrorists, nor he was assigned any individual Party task to fulfill. This job could have been done by any responsible officer of the Foreign Ministry. In a statement in Srinagar, Masood Azhar said:

> *"We fight for religion, for the spread of Islam. We do not believe in the concept of nations. Where Muslims need help, we will be there."*[319]

Jinnah had got India divided on the basis of "Two Nation" theory but Masood Azhar and some others go to the farther extreme and try to convey a new religio political concepts. "One World, one religion, one Islamic Nation". It suggests that other religions and Nations in the world have no right to survive exist or live. Jinnah's political concept based on his religious divide, became immediate danger for and detrimental to the whole of India. Azhar and some others political theory based on their religious view is not distant danger for the whole World. Kashmir has become battle field between this Jehadi terrorism and tolerant behaviourism with all its consequent sufferings. India is therefore, facing this battle for the past many

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[317] Hashim Qureshi, Kashmir Freedom in which shape, P.11.
[318] India Today, 15 May,1994.
[319] The Times of India, July 16,1993.

years, America has faced it now. European and other countries may face it in future, if all do not deal with it right now effectively and unitedly. The Islamic countries and scholars must also, meanwhile, throw light on these Muslim theories and political concepts.

Al Faran terrorist outfit also is born in 1992, after merger of Harkat-ul-Ansar and Harkat-ul-Jehadi Islami. Its foreign terrorists have come to Kashmir to undertake Jehad. According to them, *"All land belongs to Allah and, as such, they are not fighting in an alien land,"* [320] Al Faran people claim. But apparently, people other than Muslims living on the land like in Kashmir, do not perhaps belong to Allah, so are the aliens to Al Faran, with no right to live on the land which is not alien to Al Faran and who have come there to fight against these non-Muslims. A strange philosophy of life and anti humanist line of thinking: The land is theirs, because it belongs to Allah but the other people living on this land, are not theirs, because they do not belong to Allah as Muslims do. Is it not against the command of the Quran? The Quran says: Allah "is Rab-ul- Almeen". It means he is not "Rab-ul-Mussalmeen" only but of whole universe. (God is of the whole Universe and not of the Muslims alone)

Like Hizbul Mujahideen (formed in 1989), Jehadi Harkatul Mujahideen (formed in 1993) is also a terrorist wing of Jamaite Islami. It has also a substantial number of foreign terrorists, belonging to various Muslim countries, including Pakistan and Sudan.

The foreign terrorists created havoc by kidnapping and brutally killing a number of innocent persons both Hindus and Muslims. They did it at many places, they curb the freedom of the people and want them to follow their political creed forcibly……

> "…… *foreign armed people kidnapped some innocent people in Baramulla, Doda and then murdered them in a barbaric manner. The victims belonged to our State. There are many groups in Kashmir who claim that they are fighting for the freedom and rights of the people of the State. Neither Humanism nor any religion permits these savage acts of murder…… Bomb Blasts made in Anantnag and Lal Chowk in Srinagar have taken the lives of innocent people …… The Doda massacre perpetrated by foreign militants indicates that there is a calculated plan of converting Kashmir into another Afghanistan. The parties or groups who invite these armed groups to Kashmir, give them shelter and take pride in them, do they not compass the death of innocent people, children, women and aged persons of Kashmir? By striking fear in the minds*

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[320] Harkat-ul-Jehadi Islami Ka Tauraf.

of the people, do not they want to subject them to their ideology and enslave them to their political agenda?". [321]

There have been many more grim and serious "Barshalas" in Doda district and districts of Udhampur, Rajouri and Poonch, besides in Kashmir Valley at Sangrampura, Wandhama and in Chittisnghpora. There is no movement for independence or joining with Pakistan, as such, in the State. It is a terrorist movement, pure and simple, pursued for different purposes and with selfish ends of the respective leaders of the respective outfits. The international community has come to understand this reality and have no appreciation for the word and deed of the terrorist outfits. Kashmir situation is being exploited by various quarters and individuals for their personal ends, treating it some times as a business, other times political adventuraism. Hashim Qureshi makes a frank admission of it. He says:

"…… *it is a reality that in foreign countries public opinion does not go in our favour. By resorting to brutalities like kidnapping and beheading foreign tourists and by taking innocent lives through bomb blasts, we have provided an opportunity to the people abroad to label our movement a terrorist movement like those in Egypt and Algeria …… Thousands of people dole out lessons of using Kashmiri struggle for facilitating political asylum for the youth of Azad Kashmir and Pakistan. When the application for seeking asylum against India began to be rejected here in Europe, a large number of applicants changed their stand and pleaded that they were being forcibly recruited by ISI and Pakistan army to join the war against India in Kashmir. In this way, some people have made Kashmir a business and source of income".* [322]

Obviously, therefore, Kashmir is truly and exclusively not even a Centre for Islamic Jehad, or Jehad only and not also a focal point of any genuine struggle but a target of dreaded Islamic terrorism, savagery and senseless confusion for selfish considerations. This situation is created and exploited religiously as well as politically by the countries like Pakistan and the elements like Hurriyat Conference. The reality has started unfolding itself and the world is getting accordingly wiser about the true import of the facts. Pakistan desires to give further lease of life to her naked aggression and perpetuate forcible occupation of a part of the State territory. Some elements get befooled in the process.

"India has a host of evidences to prove that Pakistan is sending foreign militants to fight in Kashmir and that she is providing training facilities to Kashmiri militants for 'terrorist and subversive'

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[321] Hashim Qureshi, Kashmir Freedom in which shape,P.10.
[322] Ibid.P.9.

acts. The world has not only accepted this stand of India...... However, India has been able to convince the world that human rights violation in Kashmir might occasionally take place because of the use of gun and the cross firing that follows it...... In short on International level, it is confirmed that International opinion cannot be smoothened in favour of Kashmir Struggle because of the indiscriminate violence to which the militants have resorted." [323]

Mirwaiz Kashmir, Moulvi Yousuf Shah belonged to Muslim Conference which was the substitute for Muslim League in Kashmir. It was, therefore, an organisation supporting Pakistan, but it became defunct after 1947. Mirwaiz was running Anjuman Tabligul Islam also. It continued even after absence of Yousuf Shah to Pakistan.

Pro Pakistan Jamait-e-Islami, and Mirwaiz Moulvi Farooq, were at logger heads. But pro Pakistan terrorist outfits, Hizbul Mujahideen (of Jamait-e-Islami) and Al-Umar Mujahideen, a terrorist wing of Anjuman Tablighul Islam of Mirwaiz', was also pro- Pakistan and supporter of Hizbul Mujahideen. Even the Mirwaiz Moulvi Farooq was killed reportedly by Jamait-e-Islami activists. No doubt, Mirwaiz Moulvi Farooq was not anti Accession but did that give right to a terrorist outfit to kill him? If the terrorism launched in Kashmir were "Jehad", as some of the terrorist outfits put it, then Mirwaiz Moulvi Farooq should not have been assessinated by pro-Islam elements and protaganists of Jehad. Mirwaiz Moulvi Farooq was first rank Muslim in Kashmir, Preacher of Islam and also a Muslim religious Head. Could he still be killed by the terrorists who claim to be the defenders of Islam and the Muslims? Does it not show the sharp and glaring contradiction between Islamic prescription and political theory, prevailing and confusing the terrorist camp? It may be the outcome of their religious exploitation for their political ends. The Islamic scholars and religious heads need to enlighten the world on such doubtful issues and polemic points.

Similarly Moulvi Ahmed Din of Ghambir Muglan, Manjakot, District Rajouri (Jammu) was slaughtered by the terrorists dastardly. A gentleman par excellence, Moulvi Ahmed Din had not turned infidel, though he was Vice President of BJP, District Rajouri. I held him in high esteem. Being a good Muslim and good human being, he was both, my sympathiser and admirer. He had not renounced Islam but was proud of being a Muslim and a descendant of Mughals. Could he still be condemned by the terrorists and sacrificed on (fake) Jehad? The method of death chosen for him also require the consideration of Muslim clergy and scholars to clarify whether he could be done to death in the manner he was. After his abduction by terrorists, the Moulvi was found hands tied backward and slaughtered by

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[323] Hashim Qureshi, Kashmir Freedom in which shape, P.16.

slitting his throat. Whether this "Halal" type of killing of eatable animals for Muslims, is applicable to human beings also, particularly to a Muslim Moulvi, who faultlessly adhered to Islam? Is there no distinction enjoined for slaughtering an animal and killing a religious minded Muslim Moulvi? Is this called Jehad? Is it not purely a political tussle, nothing of religion involved in it? When it is so, how then acknowledged Muslim preacher and Moulvi can be killed by Muslim Jehadis. Are the Jehadi terrorists then not committing acts against Islam, deserving punishment and excommunication? It creates many doubts and suspicions and needs clarification from the Muslim scholars and religious heads in the world.

The Hindu sentiments are being crushed by killing of cows freely and regularly and supplying beef in the markets of Kashmir Valley. Still exists law on the statute Book of Jammu and Kashmir, prohibiting cow killing in the State and rendering offender liable to punishment. As the local Administration is soft in such matters against the offenders now, the breach of the law has become the order of the day with impunity.

Overwhelming Muslim Population in Kashmir Valley is constituted mostly of Hindu converts, bulk of whom were forced to embrace Islam. Even those Hindus who used to take mutton, would abjure taking it on certain sacred and fasting days in a year. This tradition is retained by Muslims even after conversion from generation to generation in their own limited way. This cultural heritage of restricted vegetarianism in Muslims finds adherence to, during the Urs of Ziarat-e-Battamalo Sahib, Srinagar and Ziarat-e-Reshi Sahib, Anantnag, etc. Even a substantial number of Muslims, particularly in Srinagar would not like to take beef. These traditions are not consistent with the Islamic tenets but are purely traits of Kashmiri culture of the Valley of Kashmir, Similarly, bulk of Valley Hindus abhored to take porch as Muslims did. Again, a large number among non-vegetarian Hindus in the Valley of Kashmir, would take only "Halal" meat (muton) and not " Jhatka" as is case with the general Muslims. Since the Dogra rule in the State, on certain sacred days in a year including, for instance, Janam Ashtami day, killing and sale of meat was totally prohibited and Muslims would follow it voluntarily. The Hindu Muslim relations in Kashmir were, not only very cordial but enviable too, the like of which were perhaps seldom noticed elsewhere in the world. It had, therefore, developed a cultural synthesis, based on traditions and human approach. With the gale of modernity, no doubt, the pattern was changing or vanishing but not the spirit behind it. The terrorists have certainly affected it.

"The Hindu Muslim brotherhood was superb. If the child was born in the Hindu family, the baby was fed first by breast milk of a Muslim lady. That was our custom. When a Hindu girl was married, this

Muslim "Dooda Maij" (foster mother) used to accompany her on her first wedding day to leave her at in-laws house. There was no orthodox phobia. The milkman, butcher, the vegetable seller ...... are all Muslims and Hindus freely use their products".[324]

A former Chairman of Jammu and Kashmir Legislative Council, Late Hakim Habib Ullah had breast feeding in his early age, by mother of one P.N.Lidhoo of Sopore, now retired Principal. The former also belonged to Sopore. Hakim had recollected these old good days of close Hindu Muslim ties and referred to it in a letter written before his demise to Lidhoo during the latters current displacement from the Valley.

The people would respect one others religious places and shrines, despite feuds created over some places. My mother had desired to visit Chrar-i-Sharif and pay obeisance to Nund Reshi. Much before her death, she went there. My wife, Suman and I alongwith my one clerk, Abdul Hamid Khan accompanied her to this well revered Shrine. Mohamad Umar Bhat,[325] used to send to Kherbhawani (Toola Mulla) his "Nazrana" every year on Jeth Ashtami, the day of its annual fair, as a token of reverence, through his wife or some one else. This indicates the general trend of mutual confidence and affinity, common beliefs and religious tolerance among the people of Kashmir.

Terrorists have, however, treaded the path of destroying Kashmiriat and Kashmiri Culture. It has been sought to be substituted strictly by Islamic tenets, traditions and injunctions some of which are alien to the people of Kashmir in certain respects. The Pakistan Government and their lackies, right from the days of raid on the State in 1947 have been pursuing a policy of cultural debacle and making, breach in communal amity besides endeavouring Islamisation of the State.

The new atmosphere created consequent upon the preachings and actions, of the terrorists, presents a gloomy picture of Kashmir. It has put a question mark on the safe return of displaced Hindus to Kashmir. Have they to go back to become hostages? What is the guarantee and security for them? They have withstood and witnessed many dislocations within less than six decades of Independence there in 1947, 1965, 1986 and then the enmasse displacement in 1990 and onwards. The latest heart rending massacre of eleven Kashmiri Pandit couples and two tender children at Village Nadimarg, District Pulwama, Kashmir by Islamic terrorists must serve as a pointer to the Government as well as the people. The innocent 24 Hindu minority members were taken out of their houses in the night of 23rd March, 2003 only to commit this gory act and shoot them down mercilessly. Although

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[324] K.L.Moza, Bharatiya Post, April,1987.

[325] Mohd. Umar Bhat was the first Secretary of Praja Socialist Party (PSP), Jammu and Kashmir unit in 1954

the Kashmir Hindus have seen the Indian army, para-military and other security forces, yet they are today homeless refugees and their stayed back lot in Kashmir living as the worset hostages. It is a great human problem of 100% literate, non-violent and peace loving Hindu minority of Kashmir in the Hindu majority of their secular India! After Pakistan success in occupied Kashmir, it is her concerted efforts alongwith the same forces to seek the total genocide of non-Muslim in Kashmir right from 1947. Total genocide of non-muslims in Kashmir and annexation of territory of Kashmir by Pakistan are the basis for the continuance of breach of peace and the threat of major war in Kashmir. Pakistan and her fundamentalist forces are responsible for it which always resulted in failure of peace dialogue of India. Who is the real sufferer and victim in Kashmir, let the world determine and decide it? The Hindus are still keen to go back and under no circumstances they are prepared to give up or surrender their home. Let the Centre convince them about the requisite improvement is made there. As against this, there are fresh lot of refugees, both Hindus and Muslims, camping at Shahdara in Delhi. There was already Genocide of Hindus in Kashmir. Kashmiri Pandits had filed complaint about their "Genocide" before the National Human Rights Commission, New Delhi. I argued their genocide case before the Commission. The Commission, among other things, observed in its judgement:

> *"The Killing and ethnic cleansing of Kashmiri Pandits must be seen with the deeper intent to secure secession of State of Jammu and Kashmir. The crimes committed against Kashmiri Pandits are by any yardstick, deserving of the strongest condemnation. And there can be no gain saying the acute suffering caused to community."*[326]

About the genocide of Kashmiri Pandits, the Commission held in its judgement as under:

> *"...... that the acts akin to genocide have occurred in respect of Kashmiri Pandits and that indeed in the minds and utterances of some of the militants a genocide type design may exist".*[327]

Even this finding by NHRC on Genocide of Kashmiri Pandits, is a Censure to both the Governments of India and Kashmir and cautions about the future of Hindus in Kashmir. The nation must come forward to consider how to make them honourably secured in Kashmir.

> *"Raising militancy was met with rapidly escalating sensitivity of the Administration and the security forces, caught between their crossfire, the ordinary people tended more and more to sympathise and collaborate with the militants of various hues. The worst*

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[326] National Human Rights Commission judgement dated 11th June, 1999, passed in Case Nos: 1181/94 – 95/NHRC and 802 / 94 –94 / NHRC

[327] Ibid.

sufferers were the community of Kashmiri Pandits who had to migrate from the Valley almost enmasse and became refugees in their own country. Their miserable living conditions in camps in Jammu and even in Delhi are to be seen to be believed."[328]

Alongwith terrorism, there were slogans raised as also endeavours made to establishing an Islamic rule in Kashmir, leaving no scope for alleged infidles to live back in the Valley as non-muslims. The Hindu minority of Kashmir, therefore, was denied the right to stay back in Kashmir both, as Hindus and as Indians. As such their exodus:

"The tragedy of Kashmiri Pandits is that though they ardently love their motherland, yet they look more to India and in the context of religion, consider themselves more secure with India. This was considered their crime though the Muslims who demand Pakistan are not considered traitors in the eyes of the champions of National liberation. It is to be noted that at the very outset of the on-going national liberation struggle in Kashmir when Liberation Front was the only organisation making armed struggle for attaining freedom, Kashmiri Pandits were forced to leave their place of origin. On individual level a Kashmiri Pandit might have done some excess or denied the right of others, but as a community they never harmed any body. It was the Kashmiri Pandit who rose to the envious position of teacher (guru) and the Pandits brought the light of education to their Muslim compatriots in Kashmir ...... These teachers were secularists to the core. How sad that we have not been able to protect our culture of secularist traditions; how unfortunate that we could not protect our teachers, our neighbours and our friends of Pandit community and their properties. This failure will be considered a tragedy for our nation by any stretch of imagination".[329]

Kashmiri Pandits look to Kashmir as their birth place and India as their motherland. However, without making any comments, it may be said here that Hashim Quraishi has fairly and boldly made exposure of truth about Kashmir. He has dared to counter and correctly so, the disinformation spread about Kashmiri Hindus and their exodus. They were forced and hounded out of the Valley by the vested interests and irresponsible political elements and quarters. He has also

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[328] Prem Bhasin, Janata, May Day, 1994. Prem Bhasin was a former Socialist leader and was General Secretary of PSP for several years. He has passed away recently in Noida.

[329] Hashim Qureshi, Kashmir Freedom in which shape,P.4. Hashim Qureshi, orginally a co-founder of JKLF, is himself protagonist of Independent Kashmir and currently Chairman of JK Democratic liberation Party, a seperatist outfit.

exploded the myth floated by the interested Muslim quarters, canard of getting the Hindus out by the then Governor, Jagmohan, allegedly temporarily and till, "killing" the Muslim population remaining behind, through "bombarding" Kashmir. This imaginative bombardment, what expert rumour mongers they have been! This could not be done even by a wicked and fascist Autocrat also, if Kashmir were to have one in this age.

This version and allegation is false. It is rumour and incredible at the face of it, no fair, prudent and unbiased person would at all believe in this cooked up story and fake version in this modern world, particularly when the Home Minister of India was then a Kashmiri Muslim himself, Mufti Mohamed Sayyed. It is said Mufti Sayyed wanted the Kashmiri Pandits to leave the Valley temporarily for some reasons and to appease the Kashmiri Muslims. He is the Chief Minister of Jammu and Kashmir now and must throw light on this issue to clarify the position and discount these imaginative allegations or confirm them if the allegations are true, which they are not. The irresponsible allegation, for instance is:

> *"Under a pretext, they (Government) drove out the Hindus from here (Kashmir Valley). At that time I was in Jail. It was a conspiracy. The Governor at the time was Jagmohan. There was a plan behind getting them out of the Valley. He told them 'when you go' we will rain fire from the skies at these people (Muslims). You will come back after a month. It is not a big problem. We will crush this (Islamic Jehad/insurgency) within days. Just give us only one month. I was released from the Central Jail in Jammu. Outside the jail gate I found some of those Hindus. I asked them ' what did you get by running away? Why did you run away from there? They said 'it just happened'. I said 'no, it did not just happen but what happened is this'. I told them about all that Jagmohan did to prepare them mentally to leave the place for some time- 'Just one month'."* [330]

The background of fleeing the Kashmiri Hindus stated herein above, is absolutely false and a part of continued serious disinformation campaign launched by vested interests against Kashmiri Pandits and Jagmohan as also against everything that is Indian. It was subtle way to denounce and denigrate Kashmiri Hindus and to show them impliedly as a consenting Party to the alleged conspiracy of finishing Kashmir Muslims. Moreover, it was to suppress and refuse to admit the reality of excesses done to and genocide committed on

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330 Zafar-ul-Islam Khan, Wounded Valley, P 108-9. Excerpts from the interview of Bashir Ahmed Butt, then Acting President, JKLF.

Kashmiri Hindus by Kashmiri Muslim terrorists and their forced exodus from the Valley of Kashmir.

A State Human Rights group writes to "Asia Watch" USA about Kashmir Hindus and their exodus in their Rejoinder to them. It says inter alia:

"The sovereign country has a right and a prime duty too, to ensure safety of its law abiding and innocent citizens as well as to protect its boundaries. The heart rending incidents of both, selective and indiscriminate killings of the innocent people and pushing out minority community Kashmiri Pandits of secular India, from their ancestral houses and hearths on communal grounds by Pakistan supported terrorists have not perhaps been brought to your notice. Let it be stressed here for your information that Kashmiri Hindu minority was forced to flee the Valley of Kashmir under coercive and tortuous measures adopted against them. A good number of this 100% crime free and literate community of Kashmir, one of the intellectual community, not only in India but in the whole world, was terrorised, tortured, killed brutally and then hounded out of the Valley enmasse." [331]

Hashim Qureshi, however, again contradicts JKLF version about Kashmir Hindus Unmasking the truth, he says:

"Today some Pandits are raising their voice for 'Panun Kashmir'. They have a strong argument, they say that they have been driven out of their homes by terrorising them, by attacking their honour and by killing some of their members. Now they are living in sub human conditions in refugee camps in Jammu and elsewhere. When told that they left their homes on the prompting of Governor Jagmohan, they say that no body would leave comfortable homes and go in exile to unknown and inhospitable places to live in tents where life is virtual hell. Assuming that they left at the behest of Governor Jagmohan, but what has been the fate of those Pandits who stayed back in Kashmir. A dental surgeon and his wife, who were rendering service in Srinagar, were one day called by some unknown persons at their house and then gunned down at the door step. Rosy and her mother were raped and then shot dead including Rosy's father. The Pandits ask why have their houses and shops been looted and then burnt. They ask whether this is the treatment which Islam permits to be meted out to one's neighbours? Should not these developments be good enough to scare a community away? Is not there strong logic in their demand for a seperate homeland" [332]

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[331] International Human Rights Protection Council Rejoinder to ' Human Rights Crisis in Kashmir' P.5.

[332] Hashim Quraishi, Kashmir Freedom in which shape? PP 4,5.

The instances of past group massacres of stayed back Hindus/Sikhs in Kashmir, like Sangrampora, Wandhama and Chitisinghpora are also there.

At Wandahama, a number of terrorists barged into the houses of Hindus in the night and indiscriminately fired upon the inmates. One boy aged about 11 years, some how, managed to run away from his house in darkness of the night and escaped the brutal and fatal attack. The terrorists counted the dead and the dying injured, who numbered 23, men, women and children. This figure of casualties was short by one as the terrorists possessed the full information about the total number of Hindus, living in this village on the fateful night. They did not want to leave any Hindu survival there. In search of this missing target, they found a newly born infant and shot that also dead. They set all the Hindu houses then, on fire to rest assured that there was left not a single Hindu alive in the Village. Some of the half burnt skeletons were found the next day there as traces of the victims amplifying the "glorified" deeds of the Islamic crusaders.

After mass exodus of non-Muslims from the Valley a big carnage of Sikhs took place at Chittisinghpora, Tehsil Anantnag (Kashmir). The terrorists in the Uniform of Indian Army, called out the male members of the Sikhs present in their houses in the Village, on the plea to meet the Commander Sahib at a place nearby, who wanted to talk to them. One Sardar returning from the local market, was also asked to come alongwith. He, however, placed them as terrorists and promised to reach the spot immediately after dropping the articles purchased at his house. He was permitted and he went into hiding. Shortly thereafter, the villagers heard the gun shots, killing 35 innocent Sikhs at a time on spot. When the mother of a Sardar killed in this carnage fraudulently, heard about this gruesome tragedy, She died of cardiac arrest immediately. Within twinkle of an eye, 36 innocent lives of Sikhs were sacrificed by the terrorists, for no fault of theirs. Does it mean, as it portrays, that other than the Muslims, no community has right to live and exist in Kashmir? It is reported to have started now secret conversion of Hindus to Islam in Kashmir. This all is invitation to serious reaction and repercussions. This peace defiance of high magnitude taking place invariably in Kashmir, will ultimately lead to a major war and destruction. Would the world like to see the present State of affairs to continue in Kashmir with risk of War and breach of Peace? Or, in the alternative, would the world prefer to seek end of this Islamic terrorism in Kashmir. Force can be met with force and so intervention of Army, Security and other Para-military forces, becomes inevitable to fight and finish terrorism.

I do not know whether the said interview of the JKLF, Acting President, though utterly irresponsible and totally misconceived, is given in innocence and ignorance, or is also a deliberate attempt to twist the facts and distort the history. At the same time, however, it casts serious reflection on the bonafides and good intentions of Kashmiri Pandit community. It is a humble and polite manner to malign and discredit this community on the one hand, and on the other, to poison the Muslims and their posterity as also the world against them and their role. The JKLF interview is apparently a component of series of nasty disinformations disseminated about Kashmir and against Kashmir Hindu minority.

This interview seeks to convey that Governor Jagmohan, had hatched a dangerous conspiracy to massacre the Muslims of Kashmir by bombing them after evacuating temporarily Hindus from the Valley for this purpose. This interview also suggests that the Kashmiri Pandits became the consenting party to this alleged conspiracy and also suggested that-there was no killings much less "Genocide" of Kashmiri Hindus in Kashmir. Despite being the greatest and helpless sufferers of terrorism in the Valley, would they not have tried to save themselves and their honour and respect! Could it be possible otherwise to leave the home on anybody's advice or bidding, including that of Governor Jagmohan as alleged? Such type of disinformation and canards were given press publicity against the Kashmir Hindus and the Government. The interview also conveys that the Kashmir Hindus had not suffered dastard killings, harassments and warnings causing their forced exodus from the Valley. It is only to conceal and cover up their trauma in Kashmir Valley.

Such like interviews and canards spread against Kashmir Hindus cannot deceive the world and keep them ignorant from the realities of the Valley. The casualties of Kashmiri Hindus, a small non-violent literate minority, is stated to be over one thousand due to the terrorism in the Valley. I had myself read a list of about five hundred Kashmir Hindus, male-female, killed brutally by the terrorists in the Valley. As such they left the Valley to save their honour and spare the humiliation. In other words, it is not correct that Kashmiri Hindus left the Valley for allowing the execution of the alleged conspiracy to bombard the Muslims which is basically a wrong fact and a false allegation. What a mockery! Kashmiri Pandits have soft corner for their Muslim brethren and wish them always good. They would not have tolerated it, if the allegation were correct. This belittles Kashmiri Pandit, interview givers sympathy to Kashmiri Pandits notwithstanding. It is amazing, however, anybody may ask any Kashmiri Muslim about the real cause of exodus of Kashmiri Pandits from the Valley, the reply would be the same based on

the same baseless allegations. This shows the deep rooted conspiracy against the Kashmiri Pandits themselves and not against the Muslims.

Such elements have left Goeblez also far behind in disseminating false propaganda and repeating the untruth time and again and thus make it believe as truth. Once, a Secretary of a State Department, a Muslim from Kashmir Valley, asked me in confidence at Jammu, about this story. He plainly asked me *"Is it true that Jagmohan evacuated you (Kashmiri Pandits) from Kashmir to bombard the Muslim population there?"* I was surprised on this question from a high up in the State administration. "Are you really believing it to be so?" I put it to him then denied the allegations with some brief reasons. I do not see eye to eye with everything that Governor Jagmohan did in running the administration during his rule in the State. But I am otherwise also convinced that the suspicion entertained by the Muslims in Kashmir, was totally baseless. Neither Jagmohan could think in terms of bombarding the Muslim population, nor it was possible for him, nor he possessed any such powers. He was not an absolute Monarch either. The interested Muslim quarters might have thought that they would gain some political mileage through spreading canards and disinformation. What surprises more is that what is said from the pulpit of a mosque, spreads fast in the whole Valley and is regarded as gospel truth, No amount of reasoning, logic or counter facts and arguments howsoever, correct and genuine, would succeed to assail and change the opinion held as the above one.

Bulk of the displacement of Kashmir Hindus had taken place by the end of March, 1990. If the version of Muslim leadership including JKLF were correct, Governor Jag Mohan should have embarked upon the alleged plan of bombing Kashmir from April till he was recalled in May 1990. But, he did not, nor any indication of attempting to implement the alleged plan was available or witnessed. It is so, for, there was in fact, no such plan or conspiracy at all. Furthermore, apart from Kashmiri Pandit population in Kashmir, there was some population of other Hindus also, mostly Punjabis, known as Domiciled Hindus. The allegation was against Kashmiri Pandits only and not against them. May be, that Domiciled and other Hindus are included in the words "Kashmiri Pandits" with reference to Kashmir. But there are many pockets of Sikh population also still existing and living in the Valley. Even then, in their presence Kashmir could not be made target of alleged bombing as they were not allegedly asked to leave the Valley.

It was, therefore, a calculated rumour floated by Muslim leadership of different hue and colour for two purposes. Firstly, to conceal and cover up their intentions and failure to hold back the terrorised Hindu community to ransom, in the Kashmir Valley; Secondly, to divert the

attention from the brutal killings, torture, atrocities and other excesses committed on a large number of members, male and female, of the Hindu community in Kashmir. The information and publicity wing of the Governments Central and State has been weak and non-serious about these vital issues and aspects, right from 1947 to the present day: They have not been able to educate the people within and outside India, as they apparently show lack of approach and concept. The result is that the Kashmir displaced community and Sikh minority as well as Buddhist of Ladakh have constantly been suffering since 1947 and stand ignored throughout India. The fate of Shiate Muslims as well is not satisfactory, nor of the Gujars.

It is not a Muslim problem in Kashmir, who have been benefited much as citizens of India. It is in fact, a Hindu problem in Kashmir created by the Central and State Governments by their lack of vision and short-sightedness. The real problem, however, is the successive State Governments, and they mostly created the problem of Kashmir Hindus, Sikhs and Ladakh Buddhists which would be taking still more serious turn in future. The leaders and the rulers, fail to foresee or perceive it.

The present manifestation of this problem in exodus and lost of home by Kashmir Hindus bedevils solution since 1990. Their three generations have been involved and suffered all these years. Now, the future of their some generations is not concerned, but the whole community is involved. Out of the remaining lot of Hindus in the Valley of Kashmir conversion to Islam in one form or the other, has already started. It may be the question of Pakistan occupied Kashmir, the Hindus/ Sikhs are physically liquidated. It may be the fate of Indian part of Kashmir, the Hindu/ Sikh minority is on the process of liquidation and elimination. It is not unlike Pakistan, the other way round. In the Maharaja Hari Singh's former State, the Hindu/Sikh minority is, in either case, the first and only callous casuality of this type. It poses, therefore a serious question to the world community and not only to the Indian Nation.

The Hizbul-Mujahdeen, a largest and dreaded terrorist outfit, has not accepted the return of Hindu displaced Community to the Valley of Kashmir. Their return is made conditional and subject to settlement. In an interview the Divisional Commander of Hizbul-Mujahdeen clarified their policy:

> *"Hizbul-Mujahdeen Divisional Commander for Srinagar and Budgam regions, Riaz Rasool……reiterated the Hizbul-Mujahdeen policy that the Kashmiri Hindus who migrated from the Valley will be allowed to return only after a settlement is reached"* [333]

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[333] Zafarul- Islam Khan, Wounded Valley, P.55,

In other words, the displaced Hindus cannot go back to the Valley for rehabilitation and resettlement unless and until terrorism is completely eradicated and Kashmir fully merges with India. How shameful is it that the original inhabitants of the Kashmir Valley have been dared to deny resettlement in their home? Is not this stand of one of the Islami Jehadi (terrorist) group unconscionable? Is it at all palatable to the world behaviour?

Chief of Hizbul Mujahideen, Syed Salahuddin has warned the Hindus of Kashmir, exiled or inside, to abstain from helping the Indian soldiers fighting on the soil of Kashmir, otherwise they would be severely punished:

> *"Salahuddin has clearly ruled out the possibility of 'laying down arms till the single last Indian soldier with his weapon is on the soil of Kashmir.' ' If any pro-India individual or party became instrumental in such a venture or gave a helping hand, they will be treated as "national traitors" and punished severely."*[334]

Despite the above hostile stand and opinion of some important Kashmir terrorist parties; the occasional utterances by the Central and State Government, asking the "Migrants" to go back to the Kashmir Valley, is surprising. It displays political bankruptcy and utter ignorance of the ground realities in Kashmir. The Government has failed so far in restoring peace and normalcy in the Valley. The Kashmir policy of Government of India is right from 1947 upto date, a failure and it needs serious review. The Governments have been concealing their failures and talking in the air to send the displaced people back to Kashmir.

In case the Migrants return to the Valley under the circumstances, that will not solve the matter? Are they meant to compromise with their honour and security there or to adopt compulsive attitude adverse to the country? Does the Government want them to become the hostages there or to accept conversion under force of gun? Neither the army nor security forces deployed earlier in Kashmir, protected and saved them after the terrorism erupted in Kashmir nor they would do it now. It is all the more lamentable and saddest aspect of this picture. The successive Central Governments have made Kashmir displaced people scapegoats and oblivious to their problems. What is the purpose and intention of the State and the Central Government then? Their weak and wavering policies, sometimes even inimical to the displaced community, are not going to solve the problem created and

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[334]`Zafarul- Islam Khan, Wounded Valley. P.56.

make the honourable rehabilitation of the displaced community possible in the Kashmir Valley.

Unless the writ of the Central Government runs large in Kashmir, no normalcy and peace will be restored in the State. Both the Governments must, therefore, come out with their policy and planning about the future and dignified rehabilitation of the displaced community in Kashmir. It is lamentable that a sufficient and valuable period of life of its members has been robbed in the exile and they are being treated now indifferently by the different Government institutions and public offices. They have no effective representatives in the State and Central Governments, As such their multiplying problems are not addressed and attended to. Only the "Migrants" know where the shoe pinches.

CHAPTER – XV

THUNDERS OF WAR, SCREAMS FOR PEACE

Jammu and Kashmir is a phenomenon not unrare in the world. This multi-religious, multi-ethnic and multi-lingual State is ravaged by Islamic fundamentalism as well as aggressive terrorism. Behind it is evil and expansive designs of Pakistan Government than considerations of Muslim interests and their upliftment. In ultimate analysis, it is a tussle between defiance of Rule of law, destruction of peace and promoters of war or war like situation on the one hand and on the other, struggle for development of peaceful ordered society based on human brotherhood. Passing through trauma and torture, survival of the State as inalienable part of India, is sore to Pakistan and constant challenge to the basis of her "Two Nation" theory. Politically and economically shaken Pakistan, has met her waterloo in Kashmir. She wants instead, to damage and harm India in Kashmir. Without any plausible and reasonable ground, much less legally Justifiable, Pakistan Government pursues unabated, nefarious and ill motivated plans about Kashmir, with tacit approval or connivance of the interested powers and countries in the world.

Kashmir situation is portrayed and presented as impasse and converted into a supposed Indo- Pak "problem". It has, otherwise, no basis, valid and legal. A make believe tangle exists nevertheless, more in the eyes of some Islamic countries and Western Powers than before unbiased and unprejudiced countries. This so called problem is, in fact, the creation of these powers as already indicated herein before. They have blown the situation out of proportion, giving it a legally defiant and factually wrong complexion in order to achieve their ulterior political motives.

While enjoying patronage of the British Government, the foundation of Pakistan itself is laid on communal hate, religious fanaticism, Hindu-Muslim Divide, threats and acts of terrorism. The British Rulers presumably thought that the communal disharmony in India might help uphold their stand, subserve their interests as also make their overlordship, influence and guidance indispensable in the subcontinent.

Consequent upon Jinnah's call to Muslims for "Direct Action" to press the demand for Pakistan, a siz-able number of

Hindus (Sikhs including) became the target in certain areas of Punjab, in March, 1947. It was in fact, a call to commit and spread violence and among the worst hit districts was the district of Rawalpindi. The affected Hindus were compelled to abandon their homes and roam about in the streets of Punjab. Some times, taking shelter in the house of a relative at safer places and other times, going to take refuge elsewhere. This Muslim terrorism haunted them till the actual Pakistan came into being on August 15, 1947, with all its ugly face, resulting in the greatest human catastrophe, unparalleled in the world history. With birth of Pakistan, they all lost their homes permanently together with lakhs others in Punjab. The willingness of the British Government was the important factor in creation of Pakistan, an unnatural division of the Indian Subcontinent.

> *"The British had planned to construct an ideological citadel of Islam in the territory stretching from Turkey to China, as a buffer against the communist ideology and to encircle Soviet Russia. The concept of Pakistan was, in fact, a British plan."* [335]

After disintegration of Soviet Russia, the political picture has somewhat changed. But impact of the policies survived; Muslim League's creed and its policy of causing communal and religious schism among the people(s) remains in force. This is the weapon owned and used by the Islamic Republic of Pakistan for her own aggrandisement. Territorial religious expansionists and terrorists, as well as religious Jehadis, freedom fighters and gangsters have perhaps synonymous meaning for Pakistan and the fundamentalist Islamic world. They all vigorously follow it in the State of Jammu and Kashmir and choose and use the words that suit them according to the situation. Being a Muslim country carved out of India, Pakistan mistakenly believes to have a claim over every patch of land of the Subcontinent with Muslim majority and contiguous to her. So is she obstinate to have the territory of Jammu and Kashmir, illegally and even through violence. Here originates the unwarranted trouble for Jammu and Kashmir, through Pakistan, raising an "extraneous" problem, founded on unjust and unlawful attitude and on political vandalism.

Despite Pakistan's ignoble, unjustified and perfidious attack and aggression, Maharaja Hari Singh and his rule survived. Major Som Nath Sharma and Col. Rai were the first Indian Army officers who were killed in action in Baramulla Sector. Commander-in-Chief of the State forces, Brigadier Rajinder Singh

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[335] R.N.Kaul, The Wail of Kashmir, P. 88

Jamwal had already laid down his life along with small contingent of State force while fighting and detaining thousands of well equipped Pakistani raiders in Uri sector. In Jhangar Sector (Jammu) Brigadier Usman was a top Indian Army officer who died in the field while fighting against the Pakistani army. It is the Maharaja's accession, that clothed India with absolute authority and power, not only to fight for and protect the State but also to treat the State a lawful and inalienable part and unit of the country. This Accession, irrevocable under law, has put India on the highest pedestal of authority and sovereignty viz-a-viz the State of Jammu and Kashmir.

After 1971 war, Shimla Agreement came to be executed between the Governments of India and Pakistan on July 2, 1972. It is an important agreement on Indo Pak relations, having direct bearing on Kashmir and the UNO in relation to Kashmir. But in the eye of Pakistan, her own commitments are of no consequence and the Agreements, a scrap of paper. The emphasis has been laid in the Agreement, on some vital principles. The following significant points emerged therefrom:

a) The Kashmir question is treated a bilateral Issue between India and Pakistan;

b) As a consequence thereof, the jurisdiction of UNO stands ousted. All Instructions, directions and resolutions passed by the UNO, are, therefore, reduced to nullity, which otherwise also were illegal, redundant and infructuous;

c) The nomenclature of "Ceasefire line" is accordingly changed and converted into "Line of Control" (LoC) and inviolability thereof is upheld. It was to ward off the impression of war between the two countries with which the words "Ceasefire line" were linked.

d) It also suggested freezing of the "Ceasefire line" as border between India and Pakistan.

e) Both the countries agreed to settle their pending problems by non-violent and peaceful means;

f) Neither country shall alter the situation unilaterally nor any action taken, which is detrimental to the mutual peaceful relations; and

g) No interference to be made in the internal affairs or territorial sovereignty of either of the country.

The Shimla Agreement is obviously a sort of Peace treaty between the two countries. Zulfiqar Ali Bhutoo, the then Prime Minister of Pakistan and signatory to the Shimla Agreement, did not, however, redeem his promise to settle the outstanding Issues

including Kashmir in accordance with the understanding arrived at, with Indira Gandhi, his Indian counterpart. T.N.Kaul, an Indian diplomat, who also was present in the Shimla Conference, says:

"At the Simla Conference, in July 1972, there was a glimmer of hope that the Pakistani rulers might agree to usher in a new era of Peaceful cooperation with India. Had Bhutto lived and not been assassinated by the present rulers of Pakistan he might have mended relations with India. I recall his long monologues during the Shimla Conference. He said he would have settled all pending problems, including Kashmir, then and there, but he represented a defeated country and any settlement might smack of having been arrived at under pressure. But he assured us that within a very short time of his return to Pakistan, he would recognise Bangladesh and prepare the ground for a peaceful settlement of all problems with India, as envisaged in the Simla Agreement." [336]

Even after long experience of dealing with Pakistan and despite her acute lies spoken in UNO and thereafter, violating Ceasefire line and adapting, over all adverse attitude and hostile approach, Indian Government gave in easily before Bhutto's entreaties, assurances and explanations. India sincerely believed in the assurances offered by the Government of Pakistan, with lesser truth and more untruth, never to accomplish, perhaps. Field Marshal Sam Manekshaw Chief of Indian forces in 1971 war has stated that India lost 1971 opportunity to settle Kashmir issue with Pakistan. He says:

"...... opportunity to solve the Kashmir issue came after 1971 war, when the then Pakistani Prime Minister Zulfiqar Ali Bhutto, after promising to co-operate on resolving the issue, got away with only seeking time for it.

Bhutto told late Prime Minister Indira Gandhi, 'I have just taken over from Yahya Khan. If I do any thing now they will throw me out. Give me a chance, I promise you, everything will be okay; but he had no damned intention of ever doing anything." [337]

Bhutto's downgraded attitude of bluffing the Government of India is amplified by Bhutto's launching protest with Prime Minister Indira Gandhi on entering into an Accord with Sheikh Mohamad Abdullah in February 1975. Pakistan Government had no right to do it, as it amounted to interference in the internal matters of India. Sheikh Abdullah speaking in the State Legislature, as new Chief Minister said:

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[336] T.N.Kaul, Reminiscences,PP. 179-80.
[337] The Times of India, 4th November, 2002.

"The house would have seen newspaper reports about Prime Minister Bhutto's reported protest to our Prime Minister in regard to the recent Accord......Mr. Bhutto has no doubt, learnt of the unprecedented willing masses of Kashmir who gathered all along the route from Banihal to Lal chowk in Srinagar, the other day, to demonstrate support for the Accord which brought us to office ...... What is Mr. Bhutto's protest about? Was this not wholly our internal affair?......What locus standi has Pakistan or Prime Minister? Bhutto's protest was in itself infringement of Shimla Agreement and was not in accord with that Agreement" [338]

Bhutto remained in power for a quite good period after execution of the Agreement, but did not move his little finger to commence implementation of the terms of the Agreement, even after consuming much time. Time is always essence of the Agreement. The only thing Bhutto did after many years and towards the fag end of his regime, was to get the Shimla Agreement approved by Pakistan Parliament in 1977. It is all the more, sad and surprising that Pakistan neither knows to keep up her Governments word, nor to respect the Resolution passed by her Parliament, in the realm of International relations. Does it give any credit to Pakistan?

The stipulations made in Peace Accord, have, therefore, been observed by Pakistan more in breach than in compliance. Bhutto's successors to Power, also violated flagrantly this Agreement and converted Kashmir into a War theatre. Observers some times called it Pakistan's proxy war or undeclared war, and other times Pakistan's organised and supported "Cross Border Terrorism". It is also nearly one and a half decades old now, and so the LoC is ablaze for all these years.

T.N.Kaul with all diplomatic restraint and reservations, hints briefly at the role of Pakistani rulers and of the great Powers, played in regard to Kashmir. He says:

"He (Bhutto) had his difficulties with the army and with others. He could not fulfil his promise. Like his predecessors in office, he also tried to get closer to China and the USA and received large scale military equipment from both. They (great powers) aid and abet all such moves and tendencies whose aim is to dissipate the power of the subcontinent so that their chalked out strategies for the region are not obstructed......

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[338] Sheikh Mohamad Abdullah's speech in Jammu and Kashmir Legislature in February, 1975.

There is some danger that an unpopular military dictatorship in Pakistan may embark on a military misadventure against India, to detract the attention of its own people and the world outside from its internal troubles. Yahya Khan did this in 1971 and Zia, though more intelligent, is quite capable of doing it. His successful bid to get something 'more than peanuts' from the US Government in the shape of sophisticated weaponry is a danger signal which India can ignore only at her own peril." [339]

The prophecy of "danger signal" for India contained in the concluding lines quoted above, have come out true. India is fighting terrorism and facing Pakistan army in Kargil and other border areas in the State of Jammu and Kashmir, for the last many years now. Is Pakistan, still haunted by defeat or she wants to dupe India by design and avenge on her by resorting to any perfidious, unfair and unjustified means and methods? It was the magnanimity of India to befriend Pakistan at the crucial hour and hand over unharmed to Pakistan the Army personnel, about ninety three thousand as her war captives with India.

It was done by India without insisting Pakistan on settling first the Kashmir issue to India's satisfaction. Was Kashmir then not a core issue to be tackled and decided first and before addressing the other matters? How does then Kashmir now becomes " core" issue to be settled first? Pakistan is taking undue advantage of India's gesture of friendliness. When India wins war and Pakistan is defeated, it becomes a disadvantage to India? And when Pakistan is not a defeated country, she tries to dictate terms to India. How long this game of political hide and seek would continue and India's well wishes and sincerity for the people of Pakistan be abused by Pakistan Government? It has to end by hook or crook and pleasantly or unpleasantly! For both the countries, it is neither fair, nor affordable to be at war almost perpetually or to live under the shadow of war indefinitely.

Excepting as stated already, there is no problem of Jammu and Kashmir, much less legally and factually. It is the question of aggression by Pakistan over the State which Pakistan has to vacate today or tomorrow and no law, domestic or International, permits it or legalises this unprovoked aggression and occupation of a part of the State territory. Any fake claim that may be foisted by Pakistan on Kashmir under any misconception or under the cover of raid, is simply imprudent man's flight of imagination of no consequence. Aggression is aggression and not a right which can be enforced but is a liability which must need repelled and vacated with penalty.

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[339] T.N. Kaul, Reminiscences, P.180. (1982 Edition)

It calls for handing over occupation of the grabbed territory of the State back to India without any delay. In the light of lawful Accession of Kashmir to India, no claim lies or vests in Pakistan over the State of Jammu and Kashmir and her presence in a part of the State territory is an utter illegality, provoking lawlessness and breach of Peace, besides inviting violence and even full war. Either the code of civility and human society prevails as countries like India profess or the bellicose attitude and uncontrolled terrorism dominates. The world has to make discreet choice between the two.

First path leads to the lasting peace and the second one to the destruction. The option is with Pakistan to choose either of the two under mutual negotiations only some leniency can be shown here and there for lasting peace and revival of undivided brotherhood of yester years. Jinnah and his Muslim league neither meddled in the affairs of the Indian States, nor pressed any demand with respect to these States:

> *"M.A.Jinnah, unlike Jawaharlal Nehru, was extremely reluctant at this period to involve himself directly (or the Muslim league which he headed) in the internal affairs of a princely State: Such action would in his eyes have been constitutionally most improper"* [340]

After partition of India, Jinnah or Muslim league Government in Pakistan, should have totally desisted from interfering and acting adversely against the State of Jammu and Kashmir. In view of the constitutional propriety and mandate of the Indian Independence Act, Pakistan had ceased to have any legal interest and concern whatsoever with the State. Her meddling and intrusion in Kashmir is illegal and reprehensible. India had never any aggressive designs against Pakistan. Even now, it believes in good neighbourly relations with her and other neighbours. About the importance of neighbours, Prime Minister Atal Bihari Vajpayee has rightly said, "We can change our friends but not neighbours," Benazir Bhutto had given a clean chit to India about its non-aggressive intentions towards Pakistan, way back in1983. She wrote:

> *"We do not believe the Russians and the Indians have any aggressive designs on Pakistan; in any case, we should befriend them by forging a workable deal with the Karmal Govern nent, accept the Indian offer of a friendship treaty and maintain equidistant friendship with both superpowers".* [341]

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340 Alastair Lamb, Kashmir-A Disputed Legacy, P.97.
341 Benazir Bhutto, Pakistan – The Gathering Storm, P.34 (1983 Edition)

Reverting to the military rule at home and its dangers, Benazir Bhutto stated:

"……So long as the generals remain in power, they will so conduct the foreign policy as to maintain, indeed intensify, the dangers on the borders to Justify their refusal to do the right thing:"[342]

Shimla Agreement not withstanding, Indo Pak conflict and tension did not abate. Apprehensions persisted. The mutual trust and confidence between the two countries was not built. The Prime Ministers of the two neighbouring countries, India and Pakistan, had made a novice attempt to cultivate peace and built mutual confidence, but without any result. Indira Gandhi and Zulfiqar Ali Bhutto, had laid basis for Indo Pak peace through the peace document, executed by them at Shimla in July 1972. After unfulfilled Shimla Agreement, hardly was there any logic in making offer of friendship treaty by India to Pakistan.

Indian Government seems to have remained content generally, with the offering of concessions, agreements and treaties to the unscrupulous Pakistan Government, being then positively in search of remedy to the ailment. By concealing the truth in UNO also, denying that Pakistan had aggressed the State, and asserting that the raiders were local freedom fighters, Pakistan embarrassed Sheikh Mohamad Abdullah too, a very popular and powerful leader of Kashmir Valley. He was so disgusted on this vanishing morality of Pakistan Government that in the conclusion of his speech, in the UN, he in a mood of protest, confined himself only to the following relief and request:

"……the Security Council must send a Commission to the spot to see whether the complaint brought before the Security Council is valid or invalid…… Therefore, some body must go to the spot. Then at that time it would be for us to prove that the charges we have brought before the Security Council are correct to the last word. That is the only help, we want, and no other help." [343]

It is the sacred duty of these Western Powers and their satellite countries, to save the humanity in the world from the violent thrust of the terrorists. They are, no doubt, wise nations and will be wiser, if they check the prevailing aggressive and terrorist trends and events in the world right now. If it is not done today, it may not be done tomorrow and the day after, will be too late to make amends.

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[342] Benazir Bhutto, Pakistan – The Gathering Storm, P.34 (1983 Edition)

[343] Sheikh Mohamad Abdullah's speech in UN Security Council on 5th February, 1948. (Meeting No: 241)

To improve the relations of their two countries, the descendants of their erstwhile rulers of India and Pakistan, made an attempt but without positive results. It was a rare coincidence in the world history that it fell on the shoulders of their respective offspring to advance their parents' programme of peace and friendship, who both amazingly, came to adorn the exalted offices of their respective countries.

In a gesture of goodwill, Indian Prime Minister Rajiv Gandhi visited Pakistan in 1989 in order to pick up the slender threads of peace dialogue with his Pakistani counterpart, Benazir Bhutto. It was to make some headway on the lines spelt out long ago by their respective parents, Indira Gandhi and Zulfiqar Ali Bhutto. But this attempt also did not crown with any notable success. A beginning only was made in the hope some better outcome may emerge.

> *"The new administration of Benazir Bhutto, attempted to demonstrate concern over the deteriorating Indo-Pakistani relationship. Her meeting with Rajiv Gandhi in Islamabad soon after she became Prime Minister in December, 1988 was widely seen as an opportunity for members of the new post –partition generation to resolve their differences. In early 1989 top level talks were instituted. Two agreements were signed whereby the two leaders agreed not to bomb each other's nuclear installations and that they would respect the 1972 Shimla Accord signed by their parents……For Benazir Bhutto détente with India meant that her political opponents, of whom Nawaz Sharif, leader of the IJI (Islami Jumhori Itehad) was the most vociferous , alleged that she was pro-India in order to discredit her Government at home. Rajiv Gandhi likewise faced difficulties over rapprochement with Bhutto at a time when Pakistan was being widely condemned in India for supporting the Sikh seperatist movement."* [344]

It is amusing that respect for Shimla accord was shown by the two Prime Ministers but no proper steps were taken towards implementing this peace agreement and reducing Indo-Pak tension. In their wisdom, the best way to lessen tension and ensure peace was perhaps, to preserve, protect and safeguard the defensive devices producing centres (Nuclear Installations) which they both agreed not to be bombed. That instead of doing something positive for creating mutual trust and confidence in the two nations and solving the pending problems, this agreement alone was done.

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[344] Victoria Schofield, Kashmir in the Crossfire, P.235

True, that India's declared policy has from the very beginning been, to use the atomic and other productions and devices for Public good, benefit and advantage. It can be used for defensive purposes also and threat to use it so, for destruction of adversary's installations, is in itself a deterrent to the breach of peace. That is why India did not concede to go in for anti Proliferation Treaty and genuinely so. In attempt to forge Peace, the two Prime Ministers did move but without achieving the object of move under the given circumstances and the volatile atmosphere. The main object of reducing tension and establishing Peace, was receded into the background and was undertaken instead, by other undiplomatic moves .

It was a period when Pakistan was already engaged in aiding and encouraging Khalistani terrorists. It was also a period when Pakistan Government had organised, recruited, trained and financed terrorists to operate and create havoc in Kashmir. No Government worth the name in the world can take such things lying down without striking at and smashing the training camps and other war Installations in Pakistan. India sincerely believes in the friendship of people of Pakistan. As such, she acts and reacts soberly to the inimical and diabolical acts and measures of Pakistan Government, taken from time to time against India. To defy the peace prospects and escalate tension, Pakistan Prime Minister, Benazir Bhutto asked India to vacate Siachin.

"In August 1989, Bhutoo, who had demanded that Indian troops should withdraw from Siachin, demonstrated Pakistan's continuing interest in the region by making a personal visit to the glacier; given its immense altitude, the struggle for Siachin was perhaps, symbolic, but the tensions between the two countries remained." [345]

Pakistan Government and leaders could not inspire dependability on their word or commitment. They would say one thing but do the other, off setting the effect of the first one. See for instance, the following part of Bhutto's statement. She wrote:

"The Pakistani people......want peace with India, above all. But what about Kashmir? Two points can be made straight away: The Shimla Agreement has provided an acceptable framework for a peaceful settlement of this old dispute. Both countries are still committed to it. The whole political spectrum in Pakistan accepts this mechanism. Second, Pakistanis, being concerned with only the basic rights of the Kashmiris, see no need to themselves go to war on their behalf. We remain firmly committed to supporting, by all feasible means, the

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[345] Ibid. PP 235-36.

Kashmiris struggle for their own rights......This particular hurdle, therefore, can be, and should be, surmounted". [346]

Not only this, there was subsequently another political metamorphosis of former Pakistan Prime Minister, Benazir Bhutto. While speaking in Los Angles (USA) she *"urged the United States to press for implementation of other UN resolutions including the one on Kashmir after operation desert storm is over."* [347]

Referring to UN resolution, *"which she said, called for a referendum in Kashmir to enable the people "to decide their future"* [348]

Was any Referendum/ Plebiscite held in Indian subcontinent for partitioning and creating Pakistan? What unscrupulous politics, without any basis and relevance that Pakistan Government and Pakistani leaders have been pursuing viz-a-viz India in Kashmir? They have ingenuity to blow hot and cold in the same breath. On the one hand, they decided and agree to settle the conflicts mutually under a broad guide line, and on the other they speak and act against the same commitments made already in black and white. In such an atmosphere how can India Trust Pakistan and for how long! This is not an appreciable mannerism which can suit International behaviour and relations. Under these circumstances what is the alternative left for India.

The above statements sufficiently reveal how Pakistani leaders indulge in double talk. To hoodwink the world, they talk of peace and normalising relations with India on the one hand, and on the other, they keep the clouds of war and hostility hovering on the skies of subcontinent. Shimla agreement is for solving all pending issues including Jammu and Kashmir. Once it is settled, then how the issue of Kashmir remains alive and Kashmiris need to be supported in their alleged struggle, or referendum conducted in Kashmir unless the intentions of Pakistani leaders are unfair and not clear.

Kashmiris are not Muslims alone. Dislodged and exiled Hindus, known generally as Kashmiri Pandits, are more Kashmiris, rather the original Kashmiris with longest recorded history in the world than any other community can claim to have. The plight of Hindus/Sikhs is more serious and acute, deserving sympathy and support. They are in real sense on the throes of struggle. Their pangs are because of being displaced and their homes snatched, which involve them in the acute strife

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[346] Benazir Bhutto, Pakistan- The Gathering Storm, P.67.

[347] Samachar Post, Delhi February 2, 1991

[348] Ibid

of survival. To be rehabilitated honourably and securely in Kashmir, is a matter of life and death for them. Pakistan has never uttered a word of sympathy for them. She instead, embarked upon crusade for their liquidation right from 1947 itself. Who of the Kashmiris then Pakistan shows sympathies with and talk about so loudly always?

Not a single Hindu/Sikh has been allowed to survive in Pakistan occupied Kashmir. Not only their Human Rights were grossly violated, but their total genocide was committed and were brutally and mercilessly massacred there. They were not spared at all, even those fleeing their native places in large numbers for search of refuge. And those left behind who some how escaped death, were converted to Islam. Among others, who were able to escape killings and took refuge elsewhere and outside the reach of the killers, they were, however, deprived even of the compensation for their left behind properties, which have wholly been grabbed by Muslims there along with Hindu/Sikh Shrines, temples and Gurudwaras. How do Pakistan Government and so called Azad Kashmir, account for these erstwhile non-Muslim inhabitants of Pakistan occupied areas and their properties illegally and forcibly held there.

I urge upon the UNO to appoint a three member High Power Commission, headed by a Chairman with International repute, preferably a jurist, to visit "Azad Kashmir" and verify and report to UNO as to the number of Hindu/Sikh families having survived the wholesale non Muslim massacre of 1947. Further to see whether they continue to live as Hindus/Sikhs with their properties intact and in which place of Pakistan occupied areas they live. If not, then what has happened to the non-Muslim population there and to their individual and religious properties and what impact it has on the future of India and Pakistan relations in the context of Kashmir? The reports are, however, that not even a single Hindu/Sikh family has been allowed to survive and to live as Hindu/Sikh there. Accordingly, total religio ethnic (Hindu/Sikh) cleansing has taken place there. This annihilation of non-Muslims is 100% genocide of Hindus/Sikhs in Pakistan occupied Kashmir. The peace loving peoples of the world in general, and of the former sub-continent of India in particular, will look forward to the detailed early report of the UNO on the matter solicited.

Pakistan Government extended this planning of calculated "Genocide" of Hindus in Kashmir Valley also. The Sikh community was, however, left out of this snare for the present, due to erstwhile Khalistan movement in Punjab, which it supported all through. ISI of Pakistan helped in committing Genocide of Kashmiri Pandits in the Valley of Kashmir. The world conscience may not

countenance this. The Powers and the countries in the world, which have supported the baseless case, and stand of Pakistan on Kashmir, directly or indirectly, are as well instrumental in the above man made human tragedy, closely or remotely.

Such is not the case with Indian part of Kashmir where Muslims live freely and honourably and enjoy all the liberties. Their population has much increased than it was in 1947 and have become affluent and far better. That apart, Kashmiri Muslim also is in general a suffering lot. A section of them has, in particular, seen very bad days during the current terrorism, which is more due to terrorists who gave set back to Kashmir in various ways. They burnt schools, colleges and bridges, they also forcibly married girls and raped a very large number of them.

Many of the muslim families, out of fear, shifted out of the Valley. Till some years back, a large number of these young and unmarried pregnant girls would often come by buses and trucks to Jammu and other nearby hospitals for getting abortions done. The terrorists had prohibited termination of pregnancy in the Valley. The terrorists involved in these sex scandals are not all Kashmiris. A large number of them hail from so called Azad Kashmir, Pakistan, Afghanistan, Sudan and some other Muslim countries. The helpless people could do nothing and it was the duty of the Government to protect them. But the Government utterly failed to control the situation all these years.

The result is that much blood has spilled on the lanes and streets of Kashmir. True, terrorism is mostly responsible for it. But that alone will not give a clean chit to concerned others. It may be blood of a terrorist or an innocent; it may be blood of overfed or underfed; it is blood of Kashmiris, though foreign terrorists have already taken over the command soon after of the groups. My heart, therefore, bleeds unseen and unnoticed! In Kashmir they sleep, my brothers and sisters, in the stillness of dark night, they feel, it is peace. They rise in the commencing hum drum of the day, they take it as the day with dusky war clouds. Like this, every day, every night passes in their life, in distressing uncertainty and obscurity.

Kashmir terrorism, supported by Pakistan and trained the recruits in military hardware, in various respects, has created another problem of missing persons; Again a heart rending problem and a constant worry and torture to each and every member of the family of the person missing: Unknown woes of the tormented and helpless parents and other close relations of the persons missing with unknown whereabouts, nay, with unknown fate, can neither be measured by any yardstick, nor alleviated by mere words of consolation

or promise. Without going to the fault whether of security forces or of terrorists or of the administration, this state of suspense is more tragic for the entire relations of the missing persons, than even the declared dead. According to the Association of Parents of Disappeared Persons (APDP) "there are more than 6000 youth missing in the Valley, most of them in the age group of 18 to 35 years."[349] The missing are mostly Muslims. In other communities also, the missing have recently been noticed. They include "teenaged Sikh boy Achpal Singh and a 32 year old Pandit, Kunj Lal." About the plight of the concerned afflicted families of the missing, it is revealed:

"None of the families is leading a normal life. It is pathetic to see many of the mothers, a majority of whom belong to poor and lower middle class background, running from one jail to the next, looking for their loved ones right from New Delhi's Tehar to Benaras, Jammu and Jodhpur. Those with missing husbands face a peculiar problem in so far as they cannot even remarry because there is no official word about their husband's status."[350]

The gun culture introduced and supported by Pakistan Government, has made peace in Kashmir a big casualty. Kashmiri's are living on bounties of nature sans peace. The role of the muslim leaders in exploiting and misguiding the Muslim youth is open to severe criticism even by a section of the leadership itself:

"If the leadership believes in the politics of the gun, then it must , first of all, take the gun in its own hands. It must give the gun in the hands of its sons and daughters. Those boasting of Jihad must keep before them the example of our holy prophet (PBUH). He physically participated in various wars like Bidr, Ohod, Khandaq etc......It is Kashmir alone where those who announced the gun to be the decisive factor in the struggle, never touched the gun. Their assignment got them training as doctors and engineers and business concerns."[351]

Pakistan has never had any love for Kashmiris or Kashmiri Muslims, nor were ever interested in their liberty. They had their own interests and their own axe to grind. Sheikh Abdullah, therefore, said:

"Pakistan had no interest in our liberation or it would not have opposed our freedom movement. Pakistan would have supported us when

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[349] The Times of India, October 10, 2002. During the course of an interview with Humra Qureishi, the founder of APDP Kashmir, Pervez Imroz has disclosed this information.

[350] Ibid.

[351] Jammu Kashmir Democratic Liberation Party's programme, Srinagar, P.2.

thousands of my countrymen were behind bars and hundreds were shot to death. The Pakistani leaders and Pakistani Papers were heaping abuse upon the people of Kashmir who were suffering these tortures. Then, suddenly, Pakistan comes before the bar of the world as the champion of liberty of the people of Jammu and Kashmir."[352]

Sheikh Mohamad Abdullah was astonished on the falsehood of Pakistan, dissemination of disinformation, false propaganda and the torture and cruelty they perpetrated upon Kashmiris. He, therefore, disclaimed:

"*I had thought all along that the world had got rid of Hitlers and Goebbels, but, from what has happened and what is happening in my poor country, I am convinced that they have only transmigrated their souls into Pakistan.*"[353]

Sheikh Mohamed Abdullah's indication was not wrong. The worlds highest man made human tragedy occurred in the subcontinent in 1947, in the wake of partition and creation of Pakistan due to the obstinacy and policy of Mohamad Ali Jinnah and his Muslim League. As a result, they ultimately turned out to be the world's greatest stone hearted and callous dictators and tyrant fascists in the world, before whom Hitler (and Goebbel) pale into insignificance. This greatest human tragedy of such a vast magnitude may not have been envisaged by them earlier, but also could not be wholly unexpected in view of the political and communal atmosphere that was being generated by them. The terror created and enjoyed by them, still haunts the humanity through Kashmir. The symbol of their tyranny Pakistan, is unhesitatingly following the course laid by her founding fathers. Their policy of hate, terror, carnage and destruction coupled with false propaganda and baseless assumptions and presumptions, forced Sheikh Mohamad Abdullah also to make aforesaid statement in the World Body, UNO. Two great individual founding pillars of Pakistan, Mohamad Ali Jinnah and Sahibzada Liaqat Ali Khan were both Shiate Muslims. Some time after Pakistan came into being, Shiate community is not spared and become often targets of discrimination and killings there. Some other sections of the Muslim community like Ahamedi's and Mirzais have even been declared non-Muslims and thus deprived of many important rights as against Sunni Muslims.

The Governments of both the countries, India and Pakistan, have not kept their people well aware about Kashmir. The Government of National Democratic alliance in India headed by Bharatya Janata Party (BJP) took peace initiative with Pakistan, almost

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[352] Sheikh Mohamad Abdullah speech in UN Security Council on 5th February, 1948.

[353] Ibid.

similar to the one taken earlier by Prime Minister Rajiv Gandhi in 1989, excepting fanfare the latest had. Responding to the invitation of Pakistan Prime Minister Nawaz Sharif, his Indian counterpart, Atal Bihari Vajpayee went to Pakistan by Bus with a big entourage. A joint declaration was signed by them at Lahore on February 21, 1999, known as Lahore Declaration. Although it reaffirmed faith of both the Governments in Shimla Agreement, yet the Government interpreted and termed its peace initiative as composite Dialogue. While emphasising the significance of Lahore Declaration, it says:

"It is particularly significant that the two sides gave a joint interpretation of a bilateral agreement; this is rarely done".[354]

In Lahore Declaration faith in Shimla Agreement has been renewed by saying:

"Reiterating the determination of both countries to implementing the Shimla Agreement in letter and spirit".[355]

About Jammu and Kashmir, the Declaration says:

"Have agreed that their respective Governments:-Shall intensify their efforts to resolve all issues, including the issue of Jammu and Kashmir."[356]

The word dispute is not deliberately used in Shimla Agreement with regard to Kashmir, as there are no valid or legal basis for dispute. Likewise, in the Lahore Declaration also, the word "dispute" has intentionally not been used by both the Governments, India and Pakistan on the self same grounds. The supposedly reconciliating Governments have, therefore, chosen to use word "Issue" instead, in the Lahore Declaration. It is an open and mutual admission by both the Governments that there is no dispute over Kashmir as such. After this admission by the concerned parties, the foreign powers and countries must, therefore, help to solve the issue and not to create and then perpetuate the same as dispute.

Non-interference clause also finds place in the Declaration, which is reproduced below:

"Shall refrain from intervention and interference in each other's internal affairs".[357]

About terrorism, it is clearly stipulated in the Declaration as under:

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[354] India Pakistan relations, Ministry of External affairs, Government of India
[355] Lahore Declaration Item No 5.
[356] Ibid Item No 9.
[357] Ibid Item No 10.

"Reaffirm their condemnation of terrorism in all its forms and manifestations and their determination to combat this menace".[358]

Pakistan, therefore is required to stop terrorism which is called now "Cross Border Terrorism.

Prime Minister, Atal Bihari Vajpayee's much publicised visit to Pakistan yielded practically nothing substantial. The proverb, "Old wine in New bottle" applies to it. It was fiasco like the one Rajiv Gandhi's visit was. Neither violence was abjured by Pakistan, nor tension reduced to boost the peace efforts of Indian Government. Pakistan, appears loath to value her own commitments or to respect her agreements. Amazing aspect is that India was involved instead, in a regular war by Pakistan on Kargil in Kashmir, immediately after return of Prime Minister and his entourage to India. Atal Bihari Vajpayee expressed utter surprise and said sarcastically that he never knew, his Bus on peace mission to Lahore, "would reach Kargil". Nawaz Sharif denied information that Pakistan army was in operation in Kargil.

Both the above versions about Kargil war are far from truth: At the time of Vajpayee's visit to Lahore the Pakistan army had already entrenched itself in Indian side and were making further inroads into the Indian territory. Pakistan Prime Minister's denial or ignorance about crossing and violating of LoC on Indian side at the time of Joint Declaration at Lahore, does not hold good. If the then Prime Minister of Pakistan, Nawaz Sharif, could not or did not know about this incursion by operation of Pakistan army in the Indian territory, who else could know it then better?

The reports are that even before Lahore Declaration was made, Kargil was hot. Similarly, prior to departure of Vajpayee for Lahore, Pakistan army was making further advances towards Indian side in Kargil Sector. It is difficult to believe that the Indian Prime Minister was ignorant about it or the army operation ensued only after his return to India? It is sad if he really was unaware about it till the matter became public after his return from Lahore.

According to the reports, Kargil conflagration had started much before Lahore declaration came. In a few cases pending in the State High Court at Jammu Wing some of the Government authorities and high ups of Kargil district were Respondents therein. On asking by the Government Advocate for furnishing the reply/information from the Kargil authorities for filling the counter Affidavit in the High Court on their behalf, the same was not forthcoming to the Advocate due to the Pak army infiltration

358 Lahore Declaration Item No 14.

and consequent public dislocation and restriction in movement in Kargil Sector. The Government Advocate was advanced this reason by the concerned department for causing delay in despatching the requisite information. Accordingly, the Pakistan army's incursion into India led by then Chief of the Pakistan army, General Pervaz Musharaf, had been made much before Lahore Declaration. A concerned colleague in the High Court at Jammu disclosed this to me on the condition of anonymity. Is it a serious security lapse on the part of Kashmir and Central Governments or a deliberate contrive to exploit the situation later?

India fought in Kargil successfully but not without paying a huge price. Pakistan army had the advantage of being at upper mountainous ranges and it was not so easy to dislodge and evacuate them from their entrenched position. They could almost safely fire to a long range on the Indian Army whose positions were at disadvantageous, being on the lower location and trying to scale higher mountain ranges and passes to recapture the strategic points and the territory. The military strategy demanded to have opened other fronts against Pakistan even on International Borders, advantageous to India, to distract Pakistan army and lighten the pressure on Indian army in Kargil Sector.

The Government of India appeared to be under the influence of USA and so wavered on the decision of opening other fronts and crossing International Borders. Indian Government, however, preferred to confining the war to Kargil Sector only. This decision had four demerits: Firstly, India suffered more loss in men and material in Kargil Sector; Secondly, it protracted the duration of war in Kargil; Thirdly, it gave a long lease to terrorism in Kashmir; and fourthly, it bears upon the Indian Exchequer heavily and adversely. It continues to be so even now.

In case, India had chosen a full-fledged war in 1999 against Pakistan, compelled as India was, smashing her terrorist training Camps, the continued terrorism in the State would have been finished. Learning from the past experience and in view of the prevailing circumstances, it was the only way to humble Pakistan and to restore peace and normalcy in the State. To fight the battle of Kargil, India lost 523 valuable army personnel, India lost much and gained less. In fighting the war, India might not have lost much, but could have achieved much.

In avoiding a war, India fought a battle at so much of cost but involved herself in an undeclared and continued war! This all is being done at the cost and enhancement of agony of the displaced people from Kashmir whose fate has been sealed. Their chances of services in both the State and Central Governments as well as in Private Sector, and other sources of livelihood, stand closed since long.

USA has not given any credit to the Government of India for wining the Kargil battle. While addressing to the Members of Parliament, US President Bill Clinton remarked that it was US Diplomatic role played in regard to Kargil that Pakistan vacated from Kargil Sector. Indian Defence Minister George Fernandez, however, tacitly endorsed it and partly denied it.

"Referring to Cinton's remarks…… that American diplomacy had prevailed in urging Pakistan to go back behind the Line of Control (LoC) in the Kargil crisis, Fernandez told the reporters, it is true that the Americans did use their influence over the Pakistan. There are two views on that…… It was Indias diplomatic initiative which did yield results and in so far as vacating Pakistanis from the Kargil mountains is concerned, it was a task that was done by the Indian Jawans".[359]

The Kargil war as it is called, did not, however, end there and the border skirmishes did take place thereafter and army on the both sides died.

Various *"statements by General Musharaf that infiltration cannot be fully contained",*[360] clearly indicated that Pakistan was keen to play foul here or there and wherever possible.

In the Kargil Sector, the revival of armed conflict is known as Kargil II.

"…..Another incidence of infiltration that occurred in Kashmir late July– an episode some people in strategic circles are referring to as 'Kargil–II'.

In the incident, Pakistan troops once again infiltrated and occupied heights in the Neelam Valley and the Indian Army had to mount two mission, including the use of air power to evict them. There were casualties on both sides.

…… Indian officials, without acknowledging the specific incident, say they have no reason to believe the Pakistani army is willing to give up its adventurous ways".[361]

Pakistan has shattered the confidence of India in seeking and exhibiting the co-operation of Pakistan to ease the tension and to take strong measures, laying basis for lasting peace and friendship. Pakistan seems out and out to defeat the well meaning

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[359] PTI news item transmitted to the Press on March 22, 2000 from New Delhi which was carried by some Newspapers.
[360] The Times of India, 21st August, 2002.
[361] Ibid.

intentions of India. Pakistan is responsible for worsening the situation and not India.

"The tension prevailing between India and Pakistan currently, is solely due to Pakistan and she shatters the confidence of India. The latter trusted her neighbour eyes shut and sang the songs of her love and affection. India aspired for friendship and upliftment of both the countries. But in response, she heard the sound of fires and blasts".[362]

Pakistan has been enabled to continue with her low profile Proxy War against India and keep alive border terrorism. It has foisted the burden of full war like continuous huge expenses on India, without any substantial gain and causing a drain on Indian Exchequer. The economy of India is shattering, unemployment multiplying, dearness and price index sky rocketing and corruption increasing. It is understandable that the consideration of likeliness of becoming permanent member of the Security Council, must also have weighed with Government of India in restricting the war forced by Pakistan, to the Kargil Sector only. The national interests, integrity and unity of the country have top priority over the considerations of other benefits and achievements which, however, were denied to this country subsequently. This state of affairs has caused wide spread concern in the nation.

Pakistan army has been without norms and unbothered for International Conventions as against the disciplined, dedicated and bold force of India. The six Indian army personnel captured by Pakistan during Kargil war were reportedly tortured, mutilated and maimed, their eyes gouged out and disfigured in violation of Geneva Convention. Pakistan handed over bodies of these dastardly killed army personnel to India in this condition, perhaps to create an atmosphere of awe and horror. Indian army may be capable of doing even worse than this, but they omit to do it. As many as ninety three thousand surrendered Pakistani army, from the rank of soldier to that of Lieutenant General, were war captives of India in 1971 war. But not a single soldier was tortured or manhandled. They all were later handed over back to Pakistan Government generously in sound condition. This humane sprit needs to be maintained and reciprocated.

In the Kargil war, MIG 21 was shot down by Pakistan. Its pilot Ajay Ahuja, bailed out and was captured alive by Pakistan army and then shot dead. He was not handed over alive to India but his dead body was Pakistan army has training and is in uniform but they appear in conduct, army less and terrorists more.

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[362] The "Awam", 2nd August, 1999.

India has won the battle but not the war, which still thunders. India missed the opportunities to teach Pakistan a lesson for sponsoring "cross-border terrorism,"[363] as former Defence Minister, Mulayam Singh Yadav has put it. He said:

"The first opportunity came during the Kargil episode when the centre had announced that strikes would be carried out on terrorist training camps on Pakistan side of the border. The attack on the Amarnath yatra pilgrims was the second."[364]

Peace eluded Kargil. India did not achieve it there or elsewhere in Kashmir.

"……the so called peace in the Kargil theatre, and it has been like this since July 17, the day of ceasefire came into effect. It continues till today even after the Army finally declared…… that it had kicked out the last intruder.

Our men continue to die. Since the so called ceasefire, at least 70 Indian troops have laid down their lives in the combat, or in the intense Pakistan shelling or simply blown up by boobytraps planted by the retreating intruders.

…… No one at the front deludes himself that Pakistan shelling will stop nor will Pakistani's attempt to recapture peaks cease."[365]

Indo Pak relations did not show any improvement and the violence sponsored by Pakistan against India in Kashmir did not abate. In November, 2000, Prime Minister of India, AB Vajpayee declared "non-initiation of combat operation" against terrorists in Jammu and Kashmir. This unilateral peace attempt on the part of Government of India, was in deference to the Muslim sacred month of Ramzan. This peace trial was given 6 months time but without any results due to non co-operation and failure of Pakistan as well as the terrorists to respond fairly.

"This phase, therefore, is now over. These terrorist groups have hindered the restoration of peace in Jammu and Kashmir and have inflicted misery upon the people of that State. Hereafter, security forces shall take such action against terrorists as they judge best."[366]

Even then Government of India kept its peace efforts on. Prime Minister, Vajpayee invited General Pervaz Musharaf, the then Chief Executive of Pakistan, to visit India "in pursuance of Lahore Declaration and the Shimla Agreement".[367] General Pervaz

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363 The Times of India, 28th May, 2002.

364 Ibid.

365 Ibid. 30 July, 1999.

366 Government of India Press Release, May 23, 2001.

367 Ibid.

Musharaf arrived at New Delhi for the Summit on July 14, 2001, with changed designation of President of Pakistan. India was the first country to recognise him as such, and accorded him reception accordingly. The Summit was held at Agra and the Indian Prime Minister, Vajpayee made it clear in his opening speech on July 15, 2001, that on Jammu and Kashmir different views existed which required congenial atmosphere for resolution and that terrorism in the State was promoted across the border. He said:

"You are fully aware of our views on this subject (Jammu and Kashmir) and we have heard yours. We cannot deny that there are vast differences between us on this. We are willing to address these differences and to move forward. But for this, it is important to create a conducive atmosphere." [368]

It gives a clear indication that the matters of mutual interest and concern than Jammu and Kashmir, would be discussed to solve them. But the Issue of Jammu and Kashmir, even if discussed further and formally in the Summit, would defer for resolution. This was clarified by the Prime Minister Vajpayee's following addition made to his speech:

"The terrorism and violence being promoted in the State from across its borders do not help to create such an atmosphere. We will counter them resolutely. Let no one think that India does not have the resolve, strength or stamina to continue resisting terrorism and violence. But, they do not promote meaningful dialogue.

We firmly believe that a framework to address the differences between us on Jammu and Kashmir would have to include the issue of cross-border terrorism in its ambit." [369]

On his arrival in New Delhi on July 14, 2001, Pakistan President, Pervaz Musharaf in a statement emphasised the need for dialogue to "resolve disputes".

He, inter alia, said:

"For the sake of economic prosperity and peaceful co-existence, Pakistan and India need to maintain dialogue to resolve disputes and to explore opportunities for improving bilateral relations. I am glad that this dialogue has now been resumed."[370]

General Pervez Mushraf referred to Jammu and Kashmir and wanted to have a meaningful discussion on it. He said:

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[368] Prime Minister Atal Bihari Vajpayee's opening statement at the plenary of the India Pakistan Summit, on July 15, 2001

[369] Ibid.

[370] Arrival statement in New Delhi by President of Pakistan, General Prevez Mushraf on July 14, 2001.

"For more than half a century, the Kashmir dispute has cast a shadow on relations between Pakistan and India. In my talks with the Indian leaders, I will be looking forward to a meaningful, frank and substantial discussion urging them to join hands with us in resolving this dispute in accordance with the wishes of the Kashmir people. This will facilitate resolution of other issue and lead to a full normalisation of relations.[371]

Pakistan Government have low profile in maintaining political morality and official commitments. It hardly matters whether Bhutto is there at the helm of affairs or General Mushraf. In Lahore Declaration (also in Shimla Agreement) both the Governments of India and Pakistan, as already stated, have consciously not used the word "dispute" with respect to Kashmir. The Accession of Kashmir to India, is not, nor it can be, a point of dispute or challenge. What then is point in issue about Kashmir for bilateral dialogue, is Aggression of Pakistan and Cross Border Terrorism. What concession and relaxation and to what extent, if at all, India can give to Pakistan in terms of penalty for her brutal Aggression on the State of Jammu and Kashmir and retaining the Indian territory of the State, occupied illegally and forcibly by her may be a negotiable point.

Any Government in India retreating from this factual and legal position for effecting a settlement with Pakistan, will be duping the nation and has no right to be or to remain in power. Likewise, every Government in Pakistan which conceals and defies this truth under one pretext or the other, will be harming and deceiving its people. It is for them to explore the remedial measures, if they want to live in progress, peace and amity. The invitation to General Pervez Mushraf to visit India, was, therefore, amiss. It was, no doubt, a gesture of goodwill and sincere peace effort on the part of India. But Agra Summit between India and Pakistan was not to succeed due to rigid and illogical attitude of Pakistan Government. Pursuit of peace is alright, but resultant weak-kneed policy of Government of India is neither appreciable, nor in keeping with the self respect and dignity of this great nation of India.

On coming to India, General Mushraf again harped on the same tune of Kashmir "dispute" and gave such statements against the letter and spirit of "Shimla Agreement" and "Lahore Declaration". The Government of India provided him unnecessarily, an opportunity to speak against Indian stand and on Indian soil. General Mushraf also used this visit to get himself recognised as President of Pakistan, first, by India. It also was not in good taste. Pervez Mushraf has been responsible for destroying the revived

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371 Arrival statement in New Delhi by President of Pakistan, General Prevez Mushraf on July 14, 2001

democratic fabric in Pakistan with Nawaz Sharief as Prime Minister and reeling again the people of Pakistan under the despotic rule of an Army head. The decision of holding the Summit in India was not compatible with the situation obtaining and respective conflicting stands pursued by the two contending Governments. Unless there was an agreed Agenda for the Summit, it carried little sense, politically and administratively, to hold the one and that too risking the prestige of the country. The Summit at Agra had to fail and it did fail but ended on a note, none too happy.

It is understandable that there was American influence, if not pressure, working behind holding the bilateral negotiations. But it is not understandable as to why India should succumb despite being on a righteous path. According to Field Marshal Manekshaw, President Ayub Khan of Pakistan once offered to Jawahar Lal Nehru to sort out and settle the Kashmir issue. Nehru contested Pakistan's Locus Standi in Kashmir:

"You have no right to be in Kashmir. Kashmir belongs to us".[372] Nehru quipped with firmness. Why cannot India tell this fact in plain language to the new Rulers of Pakistan? India had laid clear its policy about Kashmir, not only to Pakistan but to the world in January 1962. India said,

> *"The "dearly gained stability" and independence of India will not be allowed to be undermined by Pakistan's insistence on the application of "archaic theocratic principles" to Kashmir."*[373]

The Government of India had also cautioned that any interference and upsetting in Kashmir will have grave repercussions in India and Pakistan. India declared;

> *"...... any upset in Jammu and Kashmir will result in serious consequences to the people of the State and will also have repercussions in the rest of India."*[374]

Much after Nehru's demise Ayub Khan planned to attack Kashmir with the aid of Military hardware received from USA. Infiltration into Jammu and Kashmir was followed by an unexpected regular attack from Pakistan army in 1965. Prime Minister of India, Lal Bhadur Shastri, neither wavered nor remained indecisive but promptly reacted and permitted the army to cross the International borders to repulse Pakistanis attack. Pakistan cut a sorry finger and saved Lahore with great difficulty. Pakistan has left no scope for peace now despite the undeservingly soft approach of India.

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[372] Times of India, 4th November, 2002.
[373] Ibid. 16th January, 1962.
[374] Kashmir and the United Nations, a brochure published in 1962, by External Affairs Ministry, Govt. of India

Not only in India but throughout world the lovers of peace would wish Pakistan to give up her evil and unlawful designs of territorial annexation of Kashmir and genocide of non-Muslims. Once Pakistan adopts this civilised, humanistic and realistic approach, the hovering clouds of war will get repelled and vanished. In that event, peace will certainly not be a far cry.



This group of young Kashmiri students from district Baramulla and Kupwara (Kashmir) were on peace mission to some important cities in the country. Complete arrangements for their visit was arranged by Indian Army under the programme "Wattan ki Sair". These young Kashniris are messengers of peace as Kashmir wants peace, not terrorism.

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In case the demand for the obsolete resolution of Plebiscite, passed by UNO is still raised by Pakistan, she challenges the very Act that has brought her into being. A counter demand of derecognizing Pakistan can, therefore, be raised.

Pakistan has disturbed the peace of Kashmir through "Islamic Jehadi terrorists". The terrorists seek the complete elimination of Hindus in Kashmir. In Pakistan occupied Kashmir, total genocide of non-Muslims has already taken place. Pakistan has two aims in Kashmir: Sweeping of non-Muslim population and annexing the territory of Kashmir which she has absolutely no right to. Hence breach of peace and danger of major war on Kashmir through Pakistan.



A humanist at heart and a revolutionary in thought, Mr Pyarelal Kaul is Advocate by profession, Politician by mission and Author/Journalist by passion to serve the people. He has done his LLB from Delhi University and after enrolling as Advocate, he started practice in Delhi. Before he could stay for long in Delhi, he had to go back to Kashmir for Party work on the errand of some Senior Socialist leaders as he was a Socialist activist from his School age. He lived and practiced, therefore, much of his time in Srinagar, his home City, before his displacement in the Valley of Kashmir.

Mr. Kaul has multifarious activities and interests. He was General Secretary of J & K unit of Janata Party and Janata Dal. He has been a fighter for free and fair elections, freedom of Press and Platform and other civil liberties in Kashmir.

He received Awards and public recognition for his bold writings and making exposure of truth about Kashmir, in functions held in New Delhi and Jammu in this regard His published books "Crisis in Kashmir", (Rs. 300), "Kashmir Trail and Trávail" (Rs. 250) and "Kashmir ke Shab-W-Roz" (Urdu, Rs 100) are popular and have earned reputation.

